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ON INDIA  
(INDIAN STATUTORY COMMISSION)**

**VOLUME XV**



**EXTRACTS FROM  
OFFICIAL ORAL EVIDENCE**

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## PREFATORY NOTE

The extracts from oral evidence contained in this volume cover the more important portions of the evidence given, in the presence of the press, by officials in explanation or amplification of the expository and critical portions of the memoranda supplied by their Government.

As explained in the preface to Volume I of the Commission's Report, all evidence was taken by a Joint Conference consisting of the Statutory Commission, the Indian Central Committee and, in all the Governors' provinces except the Central Provinces, a Provincial Committee. A list of the members of these Committees is given on page iv.

References in the oral evidence to pages of the various Government Memoranda have been altered to correspond with the paging in the present Volumes IV to XIV.

This volume also includes a few written memoranda of an official character not contained in Volumes IV to XIV.

The Commission have suggested that the full text of the evidence given in the presence of the press, including portions omitted from the present volume as being of less importance, should be made available for inspection in London and India, and it is understood that this will be done.

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| Committee on Financial Relations between the Central and Provincial Governments in India.                                                                                                                         | Meston Committee Report.    | Cmd. 7240/1920.                  |
| Report of Taxation Enquiry Committee, 1925 - - - - -                                                                                                                                                              | Todhunter Committee Report. | Government of India publication. |
| Report of North West Frontier Enquiry Committee, 1922 - -                                                                                                                                                         | Bray Committee Report.      | Government of India publication. |
| Report on Indian Constitutional Reforms - - - - -                                                                                                                                                                 | Montagu-Chelmsford Report.  | Cmd. 9109 of 1918.               |
| Report of the Committee appointed by the Secretary of State for India to enquire into questions connected with the Franchise and other matters relating to Constitutional Reforms. (Chairman: LORD SOUTHBOROUGH.) | Franchise Committee Report. | „ 141 of 1919.                   |
| Report of the Royal Commission on the Superior Civil Services in India.                                                                                                                                           | Lee Commission Report.      | „ 2128 of 1924.                  |
| Report of Reforms Enquiry Committee - - - - -                                                                                                                                                                     | Muddiman Committee Report.  | „ 2360 of 1925.                  |

## POONA.

Dated, 15th October, 1928.

PRESENT :

ALL MEMBERS OF THE COMMISSION AND OF THE CENTRAL AND THE BOMBAY PROVINCIAL COMMITTEES.

**Mr. C. W. A. TURNER, C.I.E., I.C.S., Chief Secretary to the Government of Bombay.**

*The Chairman :* Before we call in our first witness, I think it may be well for me to make a few remarks to the Conference as a whole, though I have no intention of occupying precious time by any formal introductory speech. The Section of the Government of India Act under which the Commission is appointed, and the Warrant of Appointment itself, lay down accurately the purpose and scope of the inquiry which the Commissioners, with the help of their colleagues who compose the Central and Provincial Committees, are about to undertake. I think it is well to quote the words. We are appointed "for the purpose of inquiring into the working of the system of government, the growth of education and the development of representative institutions in British India, and matters connected therewith." The Section is, of course, Section 84a.

So far as the growth of education is concerned, this branch of the inquiry is for the moment in the hands of an auxiliary committee composed of 3 British and 3 Indian members, and its Chairman hopes to be able to furnish to us, at any rate by the end of December, the results of the review which that Committee is engaged in making. Later on in our tour—next year—with the help of the Central Committee, which will be going round India with us, we shall examine this document drawn up by the auxiliary committee, and we hope to have the advantage of discussing it with the Education Committee.

In the same way, we have made arrangements by which the different Provincial Committees will have the opportunity of meeting us in the latter part of our tour, and this review drawn up by the Education Committee will be one of the subjects which no doubt they will like to confer with us upon. But in view of the inquiry which is now being conducted by this auxiliary committee, the Conference came to a decision, at its private preliminary meeting on Saturday last, not at present to examine witnesses with reference to education. It would be convenient, I think, if the gentlemen of the press would be good enough to note that, and to note the reason for it. It is not that we do not treat it as a most important part of our inquiry; it is that we do not wish to duplicate effort and to waste time.

Then there is another consideration which must be borne in mind and which will help us all to make the best use of our time. There are a number of very important subjects which are within the scope of our inquiry which crop up in the memoranda again and again and in almost every Province. Now, we must organise our inquiry so as to avoid needless repetition. It must not be supposed, therefore, that we are neglecting an important subject because it is not made the topic of extensive evidence at every place in India that we visit. There will be a number of cases in which the convenient and practical course will be to examine into the topic thoroughly at some one place, and though we examine it at this one place our examination none the less will have its bearing upon the question wherever it arises in India.

Let me give one or two examples. The European Association and the Associated Chambers of Commerce have presented us with important memoranda. These memoranda, of course, must not only be studied but they must be investigated with the help of witnesses. But the Conference could not contemplate hearing witnesses, even on so important a subject as that, over and over again in every centre

that we visit. I have made some inquiries in this particular case, and I believe it will be found to be the convenient course to take what I may call the main case of the European Association—and I should have thought of the Associated Chambers of Commerce too—at Calcutta. All we want to do is to arrange it in the way that is most convenient. Unfortunately you cannot always succeed in that, but obviously we have to choose some great business centre and then devote ourselves to considering this important case with all proper fullness and care. But at the same time, of course, if there is some special feature which one or other of the branches in India raises elsewhere and which needs evidence, we should not, I think, exclude the possibility of hearing that evidence on the spot. To take an example, here in the Bombay Presidency the Bombay Chamber of Commerce has contributed a memorandum which, amongst other things, refers to this very serious question of the proper financial relations between the Presidency of Bombay and the Central Government. Well, it may be—I merely mention it as a possibility—that a witness at any rate on that side of the matter from the Chamber of Commerce here may be thought by the Conference to be a useful witness to hear. But I would deprecate the idea that we can go through the main case again and again in every place to which we go.

I will give another instance or two. I feel sure Dr. Ambedkar and Rao Bahadur Rajah will agree with me that the case of the Depressed Classes is unquestionably a very important case, to which I am quite sure we shall all wish to give adequate and careful attention; but I do not think we could be expected to go through that case in detail in every single place that we visit. In this particular Presidency we have the advantage of a memorandum on this subject for which I believe Dr. Ambedkar himself is partly responsible, as well as other memoranda; and it may be, and in fact I think it would be, useful to spend some time on that subject here in the Bombay Presidency. But my inclination is to think, though I have not yet been able to consult all my colleagues about it, that the main case may possibly have to be investigated later on, say in Madras.

The same general consideration applies to that very important community, the Anglo-Indian community. We certainly could not go over that ground again and again in every centre. I think, gentlemen, it is true that we must concentrate on particular places for our main investigation into big questions. I think myself that this is true—I throw it out to you as a suggestion—even of matters which are of such widespread and general importance and difficulty as the communal question. I do not say there will be any province of India where that question is prominent that would not rightly expect us, while we were in the Province, to hear some evidence, as well as give our personal attention to the matter; but I think we must contemplate going into it in what I may call general and abstract terms at one or two great centres. One would think, for example, that the Punjab and perhaps Bengal were places where it would be desirable to go into that great issue which you are going to help us to elucidate and illuminate in greater detail than elsewhere.

There is one other observation I wish to make before we begin. I venture to think it is an observation of very great importance, and I would most respectfully press it on the attention of my Indian



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colleagues. We must remember that the first task which is thrown upon the Commission is the task of giving, to the very best of its power, a true description of the working of the constitutional machine in India. Before one comes to remedies, before one comes to changes, before one comes to the question of new constitutions, it is extremely necessary that, with the special help of our Indian colleagues and of the witnesses, the Commissioners should be put into the position of being able to give a just, fair, sympathetic and honest account of the working of the Reforms. I need hardly say I am not prejudging the matter in the least; I am anxious to begin by learning from witnesses and from our conferences together. But I would beg you not to be impatient if we spend a good deal of time in trying to understand in a good deal of detail what, in fact, is the structure and what, in fact, is the working of this necessarily complicated machine; for, believe me, nobody—not even the greatest constitutional authority, with the most intimate knowledge of Indian affairs—can wisely prescribe for any disease until he has conducted a proper diagnosis.

\* \* \* \* \*

16. \* \* \* (To Mr. Turner): Since 1924 you have been Secretary of what is called the General Department here in this Presidency, and, as such, the scope of your Secretariat work has included some transferred subjects, such as local self-government, education, medical administration and public health, and has also included some reserved subjects, such, for instance, as marine subjects?—That is correct.

17. Is that arrangement, by which a Secretary in a Department may find that for some purposes his political chief is a Minister and for other purposes a Member, common in the organisation of departments, or is it peculiar to your case?—It is common to the Revenue Department and the Public Works Department.

18. Then I think (so that we may not omit any part of your multifarious duties) you have been acting as Chief Whip for the last two sessions, have not you?—I have.

19. The subject about which I wish to ask you a few questions is on the transferred side. I am going to use this book (the Memorandum prepared by the Government of Bombay)\* merely as a convenient means of bringing your mind to the point. Turning to page 159, para. 192 will call to your mind the sort of point I have in mind. In the Presidency of Bombay, I gather from a study of these papers, separate electorates appear to exist not only for the purpose of election to the Provincial Council but for the purpose of election to the smaller local government units?—That is so.

20. I think some of my Indian colleagues will agree with me that that is not so in all parts of India. It is therefore rather important to see how it works here. It does not apply, I think, in Madras, for instance. Let us take the local self-governing bodies in this Presidency. There is a useful list of them on page 101: Municipalities; Local Boards; Village Panchayats; Notified Areas; Sanitary Committees; Sanitary Boards; Cantonments. Cantonments come under a special head; and we can leave them out. Let us take Municipalities first of all. We realise that there is, first of all, the great Municipality of Bombay, which for some purposes stands alone and, like London, has its special code of laws. Then you have the major municipalities and then you have the other municipalities, not so great. To what extent does communal representation prevail in choosing the councils that govern these different kinds of municipalities?—In Bombay City there has never been any communal representation.

21. The elections are by wards, I suppose?—Yes.

22. And there is a general list of voters?—Yes.

There has never been any communal representation there. In the major municipalities communal representation was introduced for the first time by the Act of 1925 which constituted these major municipalities. That is the first time communal representation was introduced by statute.

23. 1925?—That, of course, was after the Montagu-Chelmsford Reforms?—That is so.

24. And of course it was by an Act of the Bombay Legislature?—Yes.

25. What about the smaller municipalities?—For the smaller municipalities communal representation does exist; it was introduced by rules under the rule-making powers of Government in 1917.

26. When you speak of communal representation you mean, I suppose, that there is a separate list for Muhammadan voters?—A special ward; sometimes one for the whole place and sometimes more.

27. Anyhow, they vote together and choose their own member?—Yes.

28. Is there, in the local self-government of this Presidency, any communal representation for any community except the Muhammadan?—No.

29. I think we will keep for the moment to the municipalities. If my colleagues will turn to page 110,\* they will find para. 124 deals with the absence of communal representation in Bombay City. I see that in the Corporation of Bombay City there are at present 80 elective seats, and then there follows a statement as to how these seats are distributed between the different communities. I do not know if those lists are fairly up to date?—Yes, they are up to date.

30. We may take them as fair, anyway?—Yes.

31. Just let us look at them; it is worth while repeating them. Out of the eighty elective seats, 25 are held by advanced Hindus, 10 by intermediate Hindus, none by the Depressed Classes, 14 by Muhammadans, 21 by Parsis, and 10 by Christians and Jews. Then there follow 10 seats which are filled by co-option?—Yes.

32. Then I think the next point of interest is the figures of the distribution of the elected members. I should just like to ask this as we go. 21 out of 80 seats are held by Parsis. \* \* \* I had thought that in point of numbers the Parsi community was a very small percentage of this great City of Bombay?—Very small indeed. I speak subject to correction, but I do not think it exceeds 10,000.

33. I am told it is about 10,000, whereas the total population of Bombay is 1,175,000?—Yes.

34. How did it come about that, with a non-communal electorate, a general electorate, a very small community of 10,000 people got 21 representatives out of 80 elective seats?—Because the community are very influential in Bombay; they are very influential in business, they are very highly educated and very advanced as compared to all other communities. I think that is the reason.

35. Let us go back a bit. Can you conveniently tell me, roughly, the sort of proportion in the population of Bombay City, or in the electorate of Bombay City, which the Muhammadans would constitute?—Again I speak subject to correction. I should say about 20 per cent. of the population.

36. 19 or 20 per cent., I am told, is the figure. Are you speaking of the whole population?—Of the whole population.

37. Not simply contrasting Hindus and Muhammadans?—No.

38. 19 or 20 per cent. of the whole?—Yes.

39. One notices that, constituting about 19 per cent. of the whole population, and there being no communal representation in the city, the Muhammadans are getting 14 seats out of 80?—That is so.

40. Is there anything you would think it useful to add by way of explanation or comment on that?—Well, again, the Muhammadan community includes the Borahs and the Memons, who are very influential in the industrial world, many of them.

41. The Borahs are Shias?—Yes. Many are large

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mill-owners, who undoubtedly have very great influence over the voting of their clerical and other staffs.

42. While we are about it, what is the sort of percentage which the Hindus bear to the total population of the City of Bombay?—I was going to say about 75 per cent.

*The Chairman*: I find it at page 481.\* It is quite worth while looking at it. There is a table there giving the figures of the electorate for the Legislative Council. It is not quite the same thing, but it gives you an idea. For the Legislative Council in Bombay City, if you take the top line of the figures, you get, apparently, a population—I am not for the moment talking about voters—a population of 184,000 Muhammadans and 976,000 Non-Muhammadans, which translated into voting strength, means 21,766 Muhammadans and 97,937 Non-Muhammadans. I suppose, of course, the figures would not be exactly the same when you came to the municipal list; but still, it gives you a rough idea.

*A Member*: There is no other franchise for the Corporation: it is the same franchise.

*The Chairman*: I am much obliged to you. So that although there is no communal electorate, you may take it that the voter is the same voter?

*The Member*: Yes.

43. Then is this the correct result in fact, Mr. Turner, that as far as the City of Bombay is concerned you have, of course, a very large majority of the population Hindu, but as it turns out, when you come to elect to the municipality you get 35 Hindu members out of 80? Is that correct?—Yes.

44. What do you think about it? Do you think that in the City of Bombay, where no doubt you concentrate a great deal of political education and intelligence, the situation there, where there is no communal representation, is really different from the situation elsewhere in the Presidency, where there is communal representation for local self-government?—Yes. I think there is a difference. Take, for instance, the case of Poona. There are roughly 12,000 Muhammadan population in Poona City, but prior to the introduction of communal representation there, I believe I am right in saying, no Muhammadan candidate had ever got in for the municipality. He only got in by nomination.

45. Now let us go for a moment to the country, and take the district councils. There are, are there not, 27 districts in the Presidency of Bombay?—That is so.

46. While we are about it, I might ask you this question in case I forget it. You have very long administrative experience. In so immense an area—I think the Presidency of Bombay is bigger than the whole of Italy—27 districts must mean that some of the areas or districts are very big. Have you a view, and do you think it well to express it, as to whether the existing areas for local self-government are of a right sort of size for efficient administration?—I think under the present conditions, the new conditions, the district local board area is rather on the large, unwieldy side. You see, in the old days the Collector was the Chairman of the district local board, and he had under him all his revenue officers, mamlatdars, and so on, who did all the local board work in with the Revenue work, and it was quite possible to keep control, and keep the work efficient in that area; but now, when the whole staff is taken away from the Collector, and is placed under a non-official, I think it is rather difficult for him to keep adequate control over all his subordinates. The distances are pretty great. I can tell you of one district which I know very well, Ahmednagar.

47. You were the Collector there?—I was there. It is roughly the size of Yorkshire in area. It has twelve talukas, two mahals, and 1,200 villages.

\* \* \* \* \*

48. I think we will just go into these 27 districts. How far are there, in the Presidency of Bombay,

communal electorates for district boards?—There are communal electorates for district boards.

49. For all of them?—Yes.

50. And that again, if I understand rightly, is by no means the universal rule. It is not so in Bengal; it is not so in Madras. When did that arise in the district boards?—It was first introduced in Sind in 1917.

51. We are going to deal with the special case of Sind at Karachi, and I will not be led into dealing with it now at any length; but one can see, of course, that Sind presents a very special problem?—Yes.

52. Just to recall my memory of it, I think Sind has a population of about 3½ million people, of which something like 75 or 76 per cent., or 2½ millions, are Muhammadans: is that right?—Yes.

53. And, of course, there are districts in which the Muhammadans are in a perfectly overwhelming majority?—Yes.

54. A communal electorate for district boards was introduced into Sind first, was it?—Yes.

55. Do you happen to know when it was introduced into the other districts?—It came in for all in 1923, under the Local Boards Act of that year.

56. And that was, of course, carried by the Bombay Council?—Yes.

57. Perhaps we might ask, though it is rather a different branch of the subject, was that Act carried with the support and approval of the Bombay Government?—I was not on the Council then, but it must have been.

\* \* \* \* \*

59. I read in para. 117 of the Memorandum\*: "It has already been stated that prior to the introduction of the Reforms, the Government of Bombay were opposed to the system of communal representation for the purposes of the municipal franchise in the Presidency proper." That, no doubt, does not mean for the City of Bombay; it means for the other municipalities?—Yes.

60. "But after the formation of special communal electorates for elections to the Legislative Council, the principle of separate representation for Muhammadans in connection with election in municipal boards was accepted by Government." And then a little lower down I read: "Of the 187 municipalities in the Presidency, all except 11 now possess separate wards for Muhammadans." So evidently the thing has been carried out nearly universally?—Yes.

61. That is in the municipalities; and you say it has been done in every single district?—Yes.

62. I do not wish at all to ask you an embarrassing question, and different people will have different views; but in the light of your own experience I do not know whether you have formed a view, or whether you can express one, as to whether in the circumstances of this Presidency you think that arrangement is one which has led to more satisfactory representation and better administration, or not?—I think it is fair to say that it has led to more satisfactory representation of the minorities, but I would not go so far as to say that it has led to more satisfactory administration.

63. Now perhaps you will let me ask you a question on a rather different point. You referred just now to the fact that in the old days, as we know, the Collector was the *ex-officio* Chairman of the District Board, and I suppose, in many cases at any rate, of the municipalities in his area?—Of the head-quarter municipalities, yes, he was.

There again, as my colleagues on my left will be the first to remind me, the practice in British India to-day is not quite uniform. My recollection is—we shall learn it as we go into more detail—that though it has been abolished in Madras, there are one or two districts where there is still, I think, an official presiding over the District Board: is not that so, Mr. Rajah, up in the hills?

*Rao Bahadur Rajah*: Yes, only for the district board; not for the municipalities.



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64. *The Chairman*: Now, this is the thing that has interested me, Mr. Turner. As long as the Collector was the *ex-officio* chairman of a district board, the arrangement was one which secured that the Chairman of the District Board would be linked up with the Commissioner, and the Commissioner in his turn would be linked up to the head of the department at Bombay; so that while you had a local administration going on with the local board, at the same time there was a real connection with the centre which enabled the centre, in case of need, effectively to control the local body?—Yes.

\* \* \* \* \*

66. \* \* \* Do you consider, or do you not consider, that the removal of the *ex-officio* chairman and the substitution of an elected chairman has any bearing on the exercise of the supervising control by the central department over the local body? What do you think about that?—Well, sir, on paper, according to the Acts of 1923 and 1925, the control sections are practically the same as they were prior to the reforms; but in practice there is, to my mind, no doubt that the control has become less strong, less efficient, than it was before the reforms. It is a little difficult to say why, and to give reasons. It is partly, I think, because district officers have had it rather rubbed into them that they should not interfere more than they can possibly help in local board affairs. The result is that these control sections in the Acts are what we might call “bludgeon” sections. That is the word we use out here. It means they are sections giving powers to smash the boards, not to guide them; and there is an absence, I think, of guidance which these boards very much need.

67. Control from the centre does not necessarily mean using a bludgeon; it may mean using an inspector.—Under the Acts we have not got any inspectors working directly under the Ministry.

68. Of course, this line of inquiry, it will be clearly understood, is not directly connected with the question of dyarchy; the question really is whether there is, at present, a sufficiently strong connection between the departmental chief, whoever he may be, and the local body. I think you say that on paper there is; but you doubt whether it acts really as effectively as it did under the old system?—Yes, in practice that is so.

69. Is there a system of audit conducted by the officers of the Ministry?—No. There is an audit conducted by what is called the Local Government Audit Department under the Accountant-General.

70. I do not mind what it is called. What I am interested in is what sort of a body it is. Is it an audit conducted as it were from head-quarters or through officers who come from head-quarters, or is it conducted by a servant of the local bodies?—It is done from head-quarters, entirely independently of the local body.

71. I do not want to go into the education side of it. \* \* \* there is a committee which is dealing with that. But, to take a single illustration, in some countries education, which is in the fullest sense in the hands of popularly-elected local bodies, none the less is controlled in case of need by the central educational board through a very effective system of inspectors. I am not clear how far that organisation obtains in this Presidency?—There again under the Primary Education Act of 1923 the control of primary education has been transferred to bodies called local authorities who were established under that Act. Those bodies have under them their own supervisors and their own inspectorate in each district. Government retain a much smaller cadre of inspectors than they had formerly, to inspect the work of these local authority inspectors.

72. I will not go further into this, because we shall find ourselves breaking ground in regard to education which it would be a pity to do now because we shall have to do it later. I wanted to know whether there was a similar and analogous system in con-

nection with local government bodies?—There is not. We have not any inspectors under the Ministry—no inspectors of local self-government bodies under the Ministry.

73. That is what I meant. When you said the method was the bludgeon, I said there might be the method of inspectors, as in England, where there is the Local Government Board inspector, who on occasion goes down to hold an inquiry. In that way we try to keep for the Ministry in case of need a control over the local bodies. You see that?—Yes. As I said, the district officers have the power of inspection. They are not inspectors of local self-governing bodies, but they have the power of inspecting the offices of the local self-governing bodies in their district.

74. I see. Lord Burnham points out to me, and it may be useful to my colleagues to be reminded, that on page 137\* there is an account of this local board audit, and, as I follow it, it is really the Collector to whom the accounts of local boards are submitted, in a prescribed form. Is not that right?—Yes, they submit a copy of the budget to the Collector.

75. “Local boards are required to prepare budget estimates every year”—it is not so much accounts as budget estimates—and to submit a copy of the “budget as approved by them to the Collector.” Does it really come to this, that under the system in this Presidency a local board with its own elected chairman carries on its own work without the Collector being a member, but the budget estimates are submitted to the Collector?—Yes.

76. Is that with the idea that the Collector in case of need may criticise them or report to head-quarters?—Yes, he has that power. There is nothing to prevent him doing so, but it is very rarely done.

77. I think you said just now you thought of recent years there was rather a strong indication given to Collectors that they ought not to interfere or criticise except in very extreme cases?—That is so.

78. You might for this purpose turn back to page 59,\* and I will put a question. I will read out a passage from the middle of page 59: “During the past three or four years the growth of Brahmin and non-Brahmin strife in the Deccan and Karnatak districts and of Hindu-Muhammadan tension throughout the Presidency has had a serious effect on the administration of local self-governing bodies in this Presidency.” It is true this passage occurs in a discussion about education, but you refer back to it when talking about local government. Is it your view that that sentence would be true if you thought about the local self-governing institutions?—Quite true.

79. I see that the view here expressed is this. It goes on to say that this unhappy tension (which I am sure everybody deplores; about that at least we shall all agree) is causing a loss in efficiency?—There is not the least doubt of that.

80. What are your reasons for saying that?—Take a board having a non-Brahmin majority. This has happened in the case of two boards recently. They have steadily put in men more because they were non-Brahmins than because they were qualified for their posts. The result is obvious.

81. That is to say, you think it has resulted in appointing people not because of their qualifications but because of their particular racial or religious connection?—I am afraid so.

82. I suppose the local authority which imposes its local taxes, cess and so on has also the responsibility of collecting them?—That is so.

83. Do you regard the extent to which the taxes are collected as satisfactory?—No. There has been a steady deterioration since 1916.

84. In local self-governing bodies?—Yes.

85. What is the reason for it?—I must add that the deterioration has been very much more marked in municipalities than in local boards, because the local board revenue is almost entirely the local fund cess; i.e. one or two annas in the rupee on land

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revenue, and is collected with the land revenue by the Government collecting staff. On the other hand, the taxes of the municipalities are collected by their own staff, and it is in the municipalities that the arrears of outstanding taxes have gone up so much of recent years.

86. Are there any figures about it?—Yes, there is a statement here—Appendix K.\*

\* \* \* \* \*

88. With regard to local boards you say the position is not so serious, for one thing because the revenue is collected by means of an additional percentage on land revenue. Where that method can be applied it is a very good way?—A very good way indeed.

89. But there is no land revenue in municipalities, and therefore you cannot apply it?—You cannot apply it.

90. Mr. Hartshorn asks this question; which I will put for him. Probably there is some limit of time within which you must pay your taxes—6 months or something?—Yes. They issue notices of demand.

91. 1918–19 is before the Montagu Reforms?—Yes, but communal representation began in 1917.

92. You attribute it to that?—Very largely.

93. Will you explain to me what the connection is between communal representation in a municipality and arrears in the collection of revenue?—If the majority of the board are of one community it is very difficult to get them to bring any pressure on the taxpayers of their community to pay their taxes. That is our experience.

94. An unwillingness to pay your rates is by no means peculiar to India!—I know that!

95. But we have to pay them. What is the method here? Is there a power of distraint?—Yes, but it is not used very largely.

96. It is exercised on the orders of the municipal council or committee?—Yes.

97. Evidently it is not always used?—It is not sufficiently used, certainly.

98. At any rate, you definitely connect that state of affairs with communal representation?—I say it has been intensified by that. It existed before, of course, but it has got worse.

99. *Major Attlee*: Originally your mode of administration depended on the Collector?—Yes.

100. He was the Chairman of the Board and very often of the municipality too. He was the executive officer, and he used his staff, I take it, for carrying on the district board work?—Very largely for the local board work, but not so much for municipal work. For that he had under him a separate municipal staff, paid by the municipality. He did not use his revenue staff directly in the municipal area, but indirectly he was able to exercise a considerable influence through them.

101. Did he recruit his own municipal staff?—Yes, very largely.

102. When he was removed you had an honorary chairman. Is that chairman practically the executive officer of the district board?—He has under him a chief officer who is the real executive officer.

103. Who is the official corresponding to the town clerk?—The chief officer. There is a chief officer under the district board and also under the municipality.

104. What status has he?—It depends on the size of the body. In most local boards he is a man on Rs. 400 to 500 a month.

105. Are there any conditions laid down as to qualifications? The point at the back of my mind is this, that in England you have a very strong municipal civil service consisting of your town clerks and so on, and a certain standard. I do not know now far that obtains in your local board work particularly?—Under the Major Municipalities Act the chief officer must be a graduate of a University or a qualified engineer.

106. And for a district board?—I do not think any qualification is actually laid down.

107. Is there any security of tenure for municipal officers?—Yes, these chief officers cannot be removed except by a two-thirds majority.

108. Does that apply to the chief officer of a district board?—Yes, as far as I remember.

109. *The Chairman*: I think you will find what you are looking for at the bottom of page 108\*: "The Chief Officer . . . must be a graduate of a recognised University or a qualified engineer" and so on?—That is for the municipality.

110. \* \* \* Lord Burnham puts this question: has the sanction of the Minister of the department to be obtained before the officer of the municipality is dismissed, or does the two-thirds vote do it whatever he says?—The two-thirds vote does it.

\* \* \* \* \*

111. *K.S. Abdul Latif Haji Hajrat Khan*: About the middle of page 59\* it is said: "During the past three or four years the growth of Brahmin and non-Brahmin strife in the Deccan and Karnatak Districts and of Hindu-Muhammadan tension throughout the Presidency has had a serious effect on the administration of local self-governing bodies in this Presidency." Can you point out a single instance in which the district local board was suspended due to Hindu-Muhammadan tension, for inefficiency?—No, there has been no instance due to Hindu-Muhammadan tension.

112. *The Chairman*: You were emphasising Hindu-Muhammadan tension. Had you some other tension in mind?—I meant Brahmin and non-Brahmin tension.

113. *K.S. Abdul Latif Haji Hajrat Khan*: Have the Muhammadans any voice in the local boards or municipalities? Are they in a majority?—In which municipality?

114. Any?—In Sind.

115. I am speaking of the Presidency?—No, not in the Presidency anywhere.

116. *Rao Sahab Patil*: May I ask you whether the case prepared by the Bombay Government was prepared in consultation with Ministers?—Yes, it was.

117. Do not you think that in the interests of fairness when any local body is to be suspended, a fair, open and impartial inquiry should be made and a full hearing should be given to the parties concerned before any action is taken?—I think that is the course generally adopted.

118. There is only a departmental inquiry. What I mean is, there ought to be an open, impartial inquiry of a judicial nature, practically, so that the other parties may be given a full chance of presenting their case, and then the Government may pass an Order for suspending the body?—I think that would be rather a slow and expensive form of inquiry.

119. Slow?—Yes.

120. A judicial inquiry a slow inquiry?—Yes.

121. And a departmental inquiry?—It is quicker, certainly.

122. But in the interests of justice, never mind if the inquiry is slow; but in order that fair justice should be done to the local body, is it not necessary, in your opinion, that a judicial inquiry should be made before any Order of suspension is passed?—That is not my experience. I think the inquiries have been perfectly fair, perfectly straightforward.

\* \* \* \* \*

123. *Rao Sahab Patil*: \* \* \* Do not you think that whenever the question of maladministration of a local body arises, after a full inquiry is made, before the body is suspended, the parties concerned only should be taken to task, and the body represented should not be deprived of the right of franchise. That should be by election, do not you think so?—I am afraid I cannot agree. What you mean is, you prefer dissolution; you think dissolution should be tried before supersession. You advocate dissolution rather than supersession?

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124. Yes.—Well, I can tell you that in one case a municipality not far from Bombay was dissolved, and at the next election exactly the same representatives were returned by the electors.

125. But those persons who were found guilty are disqualified to be members?—But how can you?

126. Those persons actually responsible for the maladministration should be disqualified from standing.—Under the existing law there is no power of disqualifying them. If you are prepared to pass an Act in the Council it might be effective.

127. Now, so far as the Bombay Corporation goes, do not you think that the representation of the intermediate classes is not adequate in proportion to the population? The number is only ten?—Yes, the representation is rather small.

128. *Syed Miran Muhammad Shah*: Do you know if Muhammadans could get any representation in the municipalities in Sind before the introduction of communal representation?—I believe it was very difficult.

*The Chairman*: That is very interesting. That is so, is it?

129. *S. M. Muhammad Shah*: Yes, sir. (To the Witness): What sort of control does the audit department exercise upon the finances of the local self-governing body?—Well, I do not think, if you use the word "control" in its strict sense, that they have any control at all. They simply report the irregularities, and it is for the Commissioner and Government to use their powers of control on those reports.

130. And I suppose the Government takes action upon those remarks?—They do, on occasions where it is required.

131. I suppose local school boards are subordinate bodies to the district local boards and municipalities?—Yes.

132. Does Government exercise any control or supervision over those bodies, or not?—Over the school boards?

133. Yes, directly?—No.

134. Then there are senior assistant education inspectors appointed for the purpose of supervising the working of the school boards. Is that not so?—Well, they are working so far as the standard of education is concerned. That is the duty of the Government inspectorate.

135. And they make a report?—Yes, so far as the standard of education is concerned.

136. Do you take any action upon the defects pointed out by them?—So far as I know the Director of Public Instruction and the inspectors act on the reports submitted to them.

137. They do?—So far as I know.

138. Does the budget of the school board also pass through the Collector and the Commissioner?—No. So far as I know, no. You know better than I do about that.

139. Yes; they do.—I did not know they did.

*S. M. Muhammad Shah*: I mean, sir, to point out and to make it clear that the Government does exercise considerable control with reference to the finances of the local bodies, as well as the school boards.

*The Chairman*: I am much obliged.

\* \* \* \* \*

140. *Sir Arthur Froom*: One or two questions arising out of the question of taxation levied by municipalities and local bodies, on which I think Mr. Turner said that local bodies were in a happier position than municipalities. I should like to ask Mr. Turner whether local bodies, such as district boards, exercise their full powers of taxation. May I put it in another way? I understand that local bodies have powers to exercise a tax up to 2 annas. Do they always exercise the full powers up to 2 annas?—Except in Gujarat, practically all the districts have raised their local fund cess from 1½ to 2 annas.

141. They are taxing up to the full, within their powers?—Yes, including Sind. Gujarat alone refused to do so.

142. One other question about the Bombay municipality. On the Bombay municipality there is no

communal representation, but the arrangement of wards in Bombay does result in a certain amount of communal representation: I mean, one ward, it is known, must return Muhammadans, because all Muhammadans live in that ward.—That may happen. They all live in special quarters.

*The Chairman*: That explains what I was wondering, Sir Arthur—whether there were not special geographical circumstances.

*Sir Arthur Froom*: It amounts to much the same thing.

*The Witness*: Strictly speaking, it is not supposed to be done on those lines, but in fact in some wards Muhammadans are in the majority, and in other wards Parsees.

143. *Sir Arthur Froom*: I think you said that local communal representation has not improved administration. Had you in mind Brahmins against Non-Brahmins or Muhammadans against Hindus?—More Brahmins against Non-Brahmins.

144. Not so much Muhammadans against Hindus?—Of course, that affects Sind.

145. You said it had not led to improved administration. Would you say that communal representation of Muhammadans and Hindus has not retarded administration, or has it just remained as it was?—I do not know Sind very well, but from what I have gathered it is inclined to retard.

146. Would you, in your opinion, suggest that the differences between Non-Brahmin and Brahmin are greater than the differences between Muhammadan and Hindu?—No, I would not say they were greater.

147. *Sir Hari Singh Gour*: In the earlier pages of your memorandum you state that communal representation in the local bodies was introduced in consequence of communal representation being introduced in the Legislative Council elections, that there was not communal representation in the local bodies till it was for the first time introduced in the elections to the local council and then it was introduced or extended to the local bodies? Is not that so?—That statement is made.

148. *The Chairman*: Is it quite accurate? I thought you gave me an instance of the communal electorate before the Montagu-Chelmsford Report?—It is not quite correct. What I mean to say is that the statutory introduction of communal representation was not till after communal representation had been introduced in the local councils.

149. What, you told me was that in Sind by a Government Order before the Montagu-Chelmsford Report there was communal representation. I did not understand from you that it existed in the rest of the Bombay Presidency before the Montagu Report?—I am sorry; it did in 1920.

150. *Sir Hari Singh Gour*: Just read paragraph 112 on page 105 of the memorandum.\* It is stated: "The question of the representation of minorities was also considered at the same time. It was thought that the system of communal representation was beset with practical difficulties and might stir up sectional animosities. It was, therefore, considered sufficient to reserve power to the Governor-in-Council of nominating one-third of the councillors as in the past to secure representation of those classes which, for any reason, were unable to elect candidates of their own, and it was not till 1917 that Government decided, for the first time, to adopt the principle of communal representation in the case of municipalities in Sind." I understand that the first sentence represents the view of the Government as regards communal representation at that time?—Yes.

151. And judging from the evidence you have just now given, we find that the view of the Bombay Government is justified by the subsequent facts; in other words by the fact that the introduction of communal representation has led to the deterioration of efficiency?—It certainly contributed towards it.

152. In one part of your evidence you said that

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[Continued.]

the introduction of communal representation has led to a more satisfactory representation. What are the various ways in communal representation in the local bodies of your Presidency which have brought about that result—nominations or elections or mixed electorates or proportional representation?—The communal wards. At present they have only wards. That has given a better representation to the Muhammadans.

153. *The Chairman*: I am not quite familiar with the use of the word "ward." Does "communal ward" in that connection mean that a particular member or members will be elected by electors on a list all Muhammadan?—Yes.

154. And you call that a ward?—Yes, it may be a whole town.

*The Chairman*: But still the point is it is not geographical so much as racial.

155. *Sir Hari Singh Gour*: Something like a college?—Yes.

156. Now if you were left to yourself and you had not been pressed by the example set by the Legislative Council, you would not have introduced communal representation in your Presidency?—I would not like to go so far as that. I think the pressure would have been pretty strong.

157. It is the pressure of the rules framed for the election to the Legislative Council, we will say Montagu-Chelmsford Reforms, which introduced communal representation in the larger bodies, the Legislative Councils and the Legislative Assembly, which influenced your decision in favour of the introduction of communal representation in the smaller bodies?—Yes; it certainly helped towards it. But, as I said just now, I should like to qualify that. I think that even without the communal representation in the Legislative Councils, the pressure for communal representation in all bodies would have been so strong that it would have been difficult to oppose it.

158. You are perfectly right, Mr. Turner. With the example of the Legislative bodies before them the communities concerned would have exercised their pressure for the introduction of communal representation in the local bodies?—Yes.

159. And you think that it would have been an unwise policy on the part of your Government to resist the exercise of this pressure?—Politically it would have been very unwise.

160. And in the same way, as I understand it, that pressure is being exercised upon your Government for communal representation in the services?—Yes.

161. Now is it not a fact that as the introduction of communal representation in the local bodies has impaired their efficiency to a certain extent, it has also contributed to the impairing of efficiency in the Services to a certain extent?—I would not say it has generally. It may have done a little; but it has not done so to such an extent as in the local bodies.

*The Chairman*: I gather that the question and answer are both limited to the question of services in connection with local bodies. We are not going at this moment into the other question.

162. *Sir Hari Singh Gour*: You have just now stated that it is on account of political considerations that your Government introduced the principle of communal representation in the local bodies. I draw your attention to what you have said already about that, that the majority of the members of the local body if they belong to one community are not in a position to exercise the same amount of pressure for the purpose of collecting rates and taxes if the taxpayers also belong to that community?—I thought that is the common experience in this country.

163. And that would obviously contribute to the impairing of efficiency?—Yes.

164. *The Honble. Sardar Bahadur Shivdev Singh Uberoi*: I wish to know from Mr. Turner the basis on which the communal representation is made in

the local bodies, that is, the district boards and municipal committees. Is it mentioned in the Acts that so much representation for each community should be given in the district boards and municipal committees, or is it left for the officials to decide?—Under the Acts of 1923 and 1925.

165. On which basis, please?—The wards are formed according to the population, very largely so far as I remember. The wards are created according to the population of Muhammadans and non-Muhammadans.

166. May I take it that the population of a town plus the voting strength of each community makes the basis of representation of each community?—I could not answer, I am afraid.\*

\* \* \* \* \*

167. *Nawab Sir Zulfiqar Ali Khan*: Mr. Turner, you stated that communal representation was due to public pressure. May I know the reason for this public pressure?—The very obvious reason that it is almost impossible for the minorities to get representation in many places; and so they insisted on communal representation.

168. Do you think that prior to communal representation the minorities or those communities who did not get sufficient representation on these bodies got justice?—I think undoubtedly their interests were liable to suffer owing to the absence of representation.

169. Do you think that it is in the interests of the administration to ignore the claims of minorities or those who are not already represented on these bodies?—That is a very difficult question to answer. I fully agree that the minorities, unless communal representation is given, have little or no chance of securing representation and their interests are liable to suffer. At the same time communalism, to my mind, has led in the past few years to a very serious fall in efficiency of local self-government administration and by that fall in efficiency the interests of the whole community must have suffered. It is a case of weighing advantages and disadvantages on both sides. I do not think anyone who has served 25 years in this country can help sympathising with the backward classes and still more with the Depressed Classes. We all want to get them forward if we can, and how we can do it without giving them representation, I do not know; but at the same time communalism undoubtedly does lead under the present circumstances to a fall in the standard of efficiency of administration. That is the only reply I can give.

170. Do you think then that the monopoly of these things is the only remedy for meeting the situation, monopoly of representation in the hands of those classes who had representation before the communal element was brought in?—You mean the advanced classes?

171. Yes, the monopoly of caste-Hindus, for example?—Am I right in thinking that what you mean is that, in order to secure efficiency, there is no other alternative but to give a monopoly of representation to the advanced classes?

172. Exactly. I want to know whether, in your opinion, that is the only remedy and you cannot think of any other?—Personally, I do not wish to advocate a monopoly to any class, the advanced or not advanced.

173. *Mr. Cadogan*: My question is with regard to municipalities. It is this. How do you account for the representation of the Muhammadan community being so utterly different outside the municipality of Bombay to what it is inside? It is stated here that in the Corporation, of the 80 elective seats Muhammadans have secured 14. I should like to know why the representation of the Muhammadan community is utterly different outside the Bombay Municipality?—The Muhammadans outside the Bombay City Municipality are much more scattered

\* See statement on page 8.



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[Continued.]

and far less influential. There are very few influential Muhammadans in Poona.

174. Just one supplementary question. I think I am right in saying that out of 157 Municipalities there are 11 which do not have separate communal wards?—Yes.

175. That includes the Bombay Municipality?—Yes.

176. Could Mr. Turner tell us what is the representation of the Muhammadan community in those 11 municipalities?—It is quite possible there are no Muhammadans there.

Statement showing the Muhammadan and non-Muhammadan voters in each of the Municipal areas of the Presidency, including Sind. (Supplied by Mr. Turner with reference to Q. 166 on 15th October.)

| Name of the Municipality. | No. of Voters. |                 |
|---------------------------|----------------|-----------------|
|                           | Muhammadan.    | Non-Muhammadan. |

## NORTHERN DIVISION.

|              |        |        |
|--------------|--------|--------|
| Ahmedabad -  | 12,361 | 59,098 |
| Prantij -    | 412    | 1,124  |
| Modasa -     | 802    | 918    |
| Viramgan -   | 758    | 3,855  |
| Sanand -     | 11     | 821    |
| Dholka -     | 1,000  | 2,668  |
| Dhandhuka -  | 762    | 1,078  |
| Ranpur -     | 215    | 602    |
| Gogho -      | 80     | 229    |
| Mehmedabad - | 328    | 1,204  |
| Kaira -      | 402    | 2,082  |
| Nadiad -     | 1,240  | 6,495  |
| Kapadvanj -  | 787    | 1,408  |
| Anand -      | 187    | 2,048  |
| Borsad -     | 709    | 1,908  |
| Dakor -      | 55     | 1,760  |
| Umreth -     | 205    | 2,457  |
| Godhra -     | 1,918  | 1,794  |
| Dohad -      | 1,109  | 1,072  |
| Broach -     | 3,065  | 7,763  |
| Ankleshwar - | 203    | 950    |
| Jambusar -   | 330    | 1,224  |
| Surat -      | 6,379  | 23,443 |
| Rander -     | 697    | 981    |
| Bulsar -     | 613    | 2,613  |
| Thana -      | 408    | 5,291  |
| Kalyan -     | 506    | 2,027  |
| Bhiwandi -   | 816    | 788    |
| Bassein -    | 146    | 1,301  |

## CENTRAL DIVISION.

|              |       |       |
|--------------|-------|-------|
| Ahmednagar - | 1,649 | 7,051 |
| Sangamner -  | 411   | 1,218 |
| Jalgaon -    | 722   | 5,385 |
| Bhusawal -   | 996   | 4,135 |
| Yawal -      | 112   | 582   |
| Faizpur -    | 212   | 1,212 |
| Raver -      | 230   | 718   |
| Savda -      | 160   | 1,027 |
| Erandol -    | 284   | 653   |
| Dharangaon - | 532   | 1,975 |
| Chopda -     | 174   | 1,443 |
| Amalner -    | 326   | 1,573 |
| Parola -     | 305   | 1,542 |
| Chalisgaon - | 212   | 668   |
| Dhulia -     | 1,651 | 6,766 |
| Sindkheda -  | 188   | 691   |
| Shirpur -    | 245   | 1,096 |
| Shahada -    | 220   | 506   |
| Taloda -     | 66    | 560   |
| Nandurbar -  | 350   | 1,462 |
| Betawad -    | 72    | 421   |
| Nasik -      | 1,125 | 6,775 |

| Name of the Municipality. | No. of Voters. |                 |
|---------------------------|----------------|-----------------|
|                           | Muhammadan.    | Non-Muhammadan. |
| Yeola -                   | 384            | 857             |
| Malegaon -                | 1,563          | 1,096           |
| Sinnar -                  | 81             | 1,057           |
| Igatpuri -                | 341            | 1,461           |
| Trimbak -                 | 16             | 457             |
| Nandgoan -                | 75             | 433             |
| Bhagur -                  | 71             | 458             |
| Manmad -                  | 244            | 1,119           |
| Alandi -                  | —              | 273             |
| Indapur -                 | 61             | 389             |
| Baramati -                | 178            | 1,207           |
| Jejuri -                  | 26             | 294             |
| Junnar -                  | 160            | 995             |
| Lonavla -                 | 428            | 1,955           |
| Poona City -              | 4,908          | 40,070          |
| Poona Suburban -          | 210            | 1,079           |
| Saswad -                  | 48             | 997             |
| Sirur -                   | 82             | 276             |
| Talegaon Dabhade -        | 96             | 267             |
| Karad -                   | 221            | 893             |
| Islampur -                | 194            | 1,338           |
| Ashte -                   | 27             | 578             |
| Tasgaon -                 | 134            | 1,201           |
| Panchgani -               | 30             | 223             |
| Satara City -             | 352            | 2,579           |
| Wai -                     | 101            | 1,287           |
| Vita -                    | 36             | 489             |
| Mhaswad -                 | 44             | 932             |
| Rahimatpur -              | 72             | 754             |
| Sholapur -                | 3,263          | 11,909          |
| Barsi -                   | 585            | 4,182           |
| Karmala -                 | 21             | 198             |
| Pandharpur -              | 225            | 4,454           |
| Sangola -                 | 56             | 524             |

## SOUTHERN DIVISION.

|                     |       |       |
|---------------------|-------|-------|
| Belgaum -           | 513   | 5,342 |
| Nipani -            | 206   | 1,913 |
| Athni -             | 164   | 1,111 |
| Gokak -             | 205   | 1,526 |
| Saundatti-Yellama - | 148   | 1,982 |
| Bail-Hongal -       | 182   | 1,057 |
| Bijapur -           | 1,353 | 3,627 |
| Bagalkot -          | 565   | 2,273 |
| Guledgud -          | 143   | 1,544 |
| Ilkal -             | 163   | 758   |
| Dharwar -           | 1,325 | 5,885 |
| Hubli -             | 1,652 | 5,873 |
| Navalgund -         | 94    | 859   |
| Nargund -           | 110   | 764   |
| Gadag-Betgeri -     | 1,385 | 6,096 |
| Haveri -            | 143   | 979   |
| Byadgi -            | 61    | 519   |
| Ranebennur -        | 312   | 1,500 |
| Yamnur* -           | —     | —     |
| Gudguddapur* -      | —     | —     |
| Kawrar -            | 137   | 1,346 |
| Kumta -             | 51    | 883   |
| Sirsi -             | 57    | 509   |
| Haliyal -           | 223   | 404   |
| Honavar -           | 27    | 495   |
| Bhatkal -           | 334   | 221   |
| Alibag -            | 49    | 700   |
| Pen -               | 50    | 945   |
| Panvel -            | 225   | 1,302 |
| Uran -              | 106   | 482   |
| Matheran -          | 55    | 185   |
| Roha -              | 176   | 655   |
| Mahad -             | 133   | 691   |
| Vengurla -          | 40    | 1,043 |
| Malvan -            | 20    | 834   |
| Ratnagiri -         | 495   | 1,372 |
| Chiplun -           | 368   | 1,048 |

\* The Board consists of nominated members only.

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[Continued.]

| Name of the Municipality. | No. of Voters. |                 | Name of the Municipality. | No. of Voters. |                 |
|---------------------------|----------------|-----------------|---------------------------|----------------|-----------------|
|                           | Muhammadan.    | Non-Muhammadan. |                           | Muhammadan.    | Non-Muhammadan. |
| BOMBAY SUBURBAN DIVISION. |                |                 | Tando Muhammad Khan.      | 382            | 523             |
| Bandra - - -              | 1,062          | 5,290           | Sukkur - - -              | 1,737          | 5,776           |
| Kurla - - -               | 664            | 2,098           | Shikarpur - - -           | 3,353          | 9,537           |
| Ghatkopar - - -           | 51             | 2,802           | Garhi Yasin - - -         | 197            | 703             |
| Juhu - - -                | —              | 172             | Rohri - - -               | 444            | 1,483           |
| SIND.                     |                |                 | Ghotki - - -              | 242            | 558             |
| Karachi - - -             | 13,725         | 28,921          | Larkana - - -             | 1,262          | 2,360           |
| Tatta - - -               | 565            | 1,136           | Kambar - - -              | 1,196          | 857             |
| Keti Bunder - - -         | 163            | 190             | Ratodero - - -            | 384            | 766             |
| Kotri - - -               | 645            | 643             | Sehwan - - -              | 266            | 264             |
| Manjhand - - -            | 158            | 405             | Bubak - - -               | 198            | 360             |
| Hyderabad - - -           | 4,522          | 10,952          | Tando Adam - - -          | 594*           | 2,437*          |
| Hala - - -                | 724            | 426             | Shahdampur - - -          | —              | —               |
| Tando Allahyar - - -      | 276            | 641             | Mirpurkhas - - -          | 495            | 1,116           |
| Nasarpur - - -            | 540            | 388             | Umarkot - - -             | 116            | 502             |
| Matiali - - -             | 827            | 264             | Jacobabad - - -           | 887            | 1,291           |

\* Separate figures for each municipal town of Tando Adam and Shahdampur are not available.

## POONA.

Dated, 16th October, 1928.

Morning.

PRESENT :

ALL THE MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND) AND THE BOMBAY PROVINCIAL COMMITTEE.

Mr. C. W. A. TURNER, C.I.E., I.C.S., Chief Secretary to the Government of Bombay—continued.

\* \* \* \* \*

1. *Dr. Suhrawardy*: Mr. Turner, you told us yesterday that in the light of your experience communal representation has resulted in a satisfactory representation of minorities, but you are not prepared to say that it has led to improvement in administration?—Yes.

2. I should like clearly to understand your evidence. I want to know whether you mean that the presence of a few Muhammadans returned by a separate communal electorate tends to impair the efficiency of the administration. Is that what you mean?—I am afraid there was a little misunderstanding yesterday. I had in mind, when those questions were being asked, not exactly communal representation but communalism. What I mean by communalism is this. Take the case of the Deccan and Karnatak divisions. There, owing to the lowering of the franchise, non-Brahmins have swept the board and have a commanding majority on the local bodies, both municipalities and local boards. The result of that has been, in my opinion, a fall in efficiency.

3. You were referring rather to the non-Brahmin element than to the Muhammadan element returned by communal representation?—In the Presidency proper.

4. Had you in your Presidency any system of nomination prior to the introduction of communal electorates?—Yes.

5. What is the object of nomination? Why did Government reserve a number of seats for nomination?—To secure as far as possible the representation of minorities.

6. In that case the same object is served by the return of members by separate electorates. Now that election is by communal electorates the number of seats reserved for nomination has decreased: is not that so?—That is so.

7. You have told us that with the introduction of communal representation there has been a decline in efficiency. In the old days, minorities were represented on the local bodies by nomination. Was there no decline in efficiency in the administration of these boards in the old days?—No, because they had not got a commanding majority. Nomination did not secure a commanding majority; it simply gave representation to minorities.

8. Has the system of communal representation secured a commanding majority for the Mussalman community?—Not in the Presidency proper.

9. When you say "the Presidency proper" you mean, including Sind?—Yes.

10. Can you show, by reference to Appendix "Y" and Appendix "Z" (page 193\*), by reference to figures, that by virtue of the commanding majorities secured by non-Brahmins efficiency has been impaired in any of the boards or municipalities?—I would ask you to turn to Dharwar, page 196.\* You will see there are now 117 members of the "backward classes" to 22 of the "advanced classes."

11. *The Chairman*: Out of a total of 139 elected non-Muhammadans—is that right?—Yes. That is a rather striking difference.

12. May I just interpose to ask a question? Does that mean that in Dharwar you would get, apart altogether from the Muhammadans who were elected, some Brahmins and some non-Brahmins? Is that it?—That is it.

13. Roughly speaking, may I take it the 117 are non-Brahmins and the 22 Brahmins?—Yes, roughly.

14. Just so that I may follow you, is that what you refer to when you say that the extension of the franchise has enabled the non-Brahmins to sweep the boards?—Yes, in certain districts it has.



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[Continued.]

15. *Dr. Suhrawardy* : How many Muhammadans have been returned ? Is the total number of elected Muhammadans 14 ?—Yes, in Dharwar.

16. Then you have got in Appendix FF (page 208\*) a list of cases in which mismanagement was reported and in Appendix GG (page 209\*) a list of cases in which orders of dissolution have been issued. Can you, by reference to that, point out that Dharwar has suffered because of this increase in the number of non-Brahmins ?—No, I cannot say that in Dharwar things have come to the point where actual super-session would be necessary.

17. Has the non-co-operation movement anything to do with the decrease in efficiency ?—It had in the past ; it has not so much now. In the years 1919 to 1922 it was responsible for most of the trouble.

18. And it was about that time that communal representation was introduced for the first time ? That was in 1923 ?—In 1923, yes.

19. I put it to you it is impossible exactly to apportion the responsibility for the deterioration between the non-co-operation movement and communal representation. Although the non-co-operation movement may have declined since 1922 it is still with us ? Is not that so ?—To a very minor degree.

20. May I draw your attention to one passage in Appendix FF on page 208,\* which says "and to crown all, in spite of the want of funds even to pay their employees the Municipality of Barsad began spending money in presenting addresses unauthorisedly to persons who had taken a prominent part in the non-co-operation movement ?—That was so.

21. I suggest there may be factors other than the communal representation (leading to a commanding majority of non-Brahmins) which may be responsible for a decrease in the efficiency of administration ?—You must make a distinction between Gujarat and the Deccan and Karnatak in respect of non-co-operation. Non-co-operation was very strong in Gujarat, but never in the Deccan or Karnatak.

22. Will you kindly tell us how the official chairmen were supplanted by elected non-official chairmen in your Presidency ? In my province it was done gradually ; certain municipalities and district boards were given that privilege ?—As regards municipalities, it began, so far as I remember, in 1908. As regards district boards, it began in 1915 and was completed by 1918.

23. *The Chairman* : That is, the substitution of an elected chairman for the ex-officio chairmanship of the Collector ?—Yes.

24. *Dr. Suhrawardy* : You have been Collector of some district—I think Ahmednagar ?—Yes, and Sholapur.

25. When were you at Sholapur ?—1923.

26. Were you ex-officio chairman of the district board there ?—No.

27. There was a non-official chairman ?—Yes.

28. When did you give the privilege of electing a non-official chairman to that district ?—Between 1916 and 1918 ; I cannot give you the date off-hand.

29. What I want to find out from you is whether the substitution of a non-official elected chairman for an official chairman has in any way impaired the efficiency of the district board in question ?—I can only say, as regards Sholapur, that it was found necessary to supersede the board last year.

30. *Raja Nawab Ali Khan* : You stated yesterday you knew of no method other than communal representation for the adequate representation of minorities ?—Yes.

31. Do not you think that joint electorates with reservation of seats or the method of proportional representation would answer the purpose equally well ?—That is a very technical question. I am not prepared to say off-hand.

32. *The Chairman* : There was one other point which was mentioned yesterday. I think it was Sardar Bahadur Shivdev Singh Uberoi who asked if you could give him this morning some information

about the method which was followed in the municipalities here for securing correct communal representation ?—It is done proportionately to the population on a regular system in all the municipalities and districts.

33. *Sardar Shivdev Singh Uberoi* : And when the members are nominated on those bodies, consideration is of course given to the size of minorities at the time of nomination ?—Yes.

34. I understand this principle of population basis is not observed in the case of the Bombay Legislative Council ?—I think not.

35. To refresh your memory, the population of Bombay is 19 per cent. Muhammadan, and out of 86 elected seats they are given 27 ?—Yes.

36. Which is higher than 19 per cent. ?—Yes.

37. This is a special representation given to the Muhammadan element ?—It is in the case of the Council.

38. On account of the importance of that community in this Presidency ?—Yes.

\* \* \* \* \*

39. *Rao Bahadur Rajah* : \* \* \* Is it not obvious the Bombay Corporation are not sympathetic, seeing they do not even co-opt a single member of the Depressed Classes ?—You mean the Bombay City Corporation ? One can only judge by the fact that they do not co-opt any one.

40. In how many municipalities are there elected representatives of the Depressed Classes ?—I am afraid I cannot tell you off-hand.

41. Can you tell me in how many municipalities there are co-opted members of the Depressed Classes ?—I cannot say.

42. Are they represented on the sanitary boards ?—I think it is very doubtful ; it is a question I shall have to look up.

43. The representatives on the sanitary boards are appointed by the Government ?—By the Commissioner. It would be very difficult to obtain really suitable Depressed Class men in small places where there are sanitary boards.

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45. *Rao Bahadur Rajah* : Has there been any legislation in the Legislative Council to ameliorate the lot of the Depressed Classes ?—There has been no legislation, but there have been several resolutions moved, one of which was approved, namely that all public buildings such as dharamshalas and all public water-supplies should be thrown open to the Depressed Classes in all cases, and that where the local authority was found not to comply with that the Government should take measures to bring them to their senses by reducing the grant.

46. *The Chairman* : That is a resolution ?—Yes.

\* \* \* \* \*

49. The effective thing (if there is anything effective about it) must be not the resolution, but something which happens to the resolution ?—It has been accepted by Government and acted on.

50. Are there any cases where penalties have been imposed ?—Yes, in the case of one taluka.

51. Which ?—Kalyan in the Thana district.

*Rao Bahadur Rajah* : Referring to page 384,\* will you explain why the Government did not interfere in the case of the public well at Mahad, which has been taken to the courts ?

52. *The Chairman* : I think my colleagues would like to look at that. The passage referred to begins at the bottom of page 383\*. \* \* \* What is the date of the resolution to which you refer as having been passed, to the effect that all public wells and tanks should be open to the Depressed Classes ? What year was that ?—1926.

53. Then it was before this incident ?—Yes.

54. Having been passed and the Government having adopted it, did this particular municipality act in regard to this resolution at first ?—Yes.

55. If that is the case I do not quite understand why it should be necessary for certain members of

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the Depressed Classes forcibly to assert their right?—The difficulty there was that this tank is surrounded by private houses, which have private access to the tank. There are certain public steps down to that tank. Those public steps anyone in the place has the right, so far as we know, to use; but the difficulty was at the time as to what were the private rights over that tank of the residents immediately round it.

56. The public would be entitled to go down the public steps to the water's edge?—That is what Government made up their minds to allow, and police had been ordered there to see it was allowed.

57. Was there any opposition to it?—There might have been by the higher castes.

58. You see my point? I think very probably the Rao Bahadur has it in mind. Taking it that the Government had adopted the resolution, one would have thought that it would not be necessary for the Depressed Classes forcibly to assert their right. Apparently it must have been due to some local opposition?—Local opposition entirely.

59. Owing to the local opposition, the local municipality did not know what to do, and withdrew their resolution?—Yes. I think they were influenced very largely by the high caste people also.

*The Chairman*: Was that what you wanted to ask?

*Rao Bahadur Rajah*: Yes, that is the point.

\* \* \* \* \*

*Rao Bahadur Rajah*: \* \* \* Apart from the efforts of non-official organisations, what official action has been taken by Government since the Reforms were introduced to secure these civic rights for my people? It is stated in this book that a large section of the population is denied its legitimate civic rights.

*The Chairman*: "Owing to the prevalence of "untouchability a large section of the population is "denied the enjoyment of its legitimate civic rights."

60. *Rao Bahadur Rajah*: Yes. With reference to that remark, what official action has been taken by Government since the Reforms to secure these civic rights for the Depressed Classes?—I have just said that Government accepted that resolution in 1926 by which grants were withdrawn from local bodies which did not allow the Depressed Classes to go to dharamshalas or schools or use the public water-supply. There is no law by which they can force a touchable to touch an untouchable.

\* \* \* \* \*

May I add something to what I said just now? We were speaking of what Government had done for the Depressed Classes. I should like to refer to the first few sentences on page 383\*.

61. *The Chairman*: \* \* \* Are you right when you said that resolution was passed in 1926? Look at the bottom of page 383\*. \* \* \* It was in 1923?—Yes. You are quite right.

63. *Mr. Harishorn*: You said, I think, that on one occasion only had Government found it necessary to reduce the grants or apply penalties (whatever those penalties might be) because the local authority did not comply with the resolution. When those penalties were imposed, what was the result in that particular case?—Up to the time when I handed over charge of the department, no report had come in from the Collectors.

*Dr. Ambedkar*: May I explain, on a point of information? After the resolution of 1923 was adopted by the Legislative Council it was found out that this resolution was only a pious wish, and that beyond a mere declaration of the policy of Government there was no means to bring the resolution into effect.

*The Witness*: I was just going to say that.

*Dr. Ambedkar*: Consequently, in 1925 another resolution was moved, and was accepted, whereby it was resolved that in case any local authority did not bring the Resolution of 1923 into effect, it should

have its discretionary grant stopped. That was the penalty provided in the Resolution. Besides the local grants, the Government gives to the local bodies certain discretionary grants, and the penalty was with respect to the withholding of these discretionary grants. Now, I do not know in how many cases these discretionary grants have been withheld, but I think Mr. Turner will not disagree with me if I say that notwithstanding the subsequent resolution with regard to the withholding of discretionary grants, the situation remains what it was even before 1923.

64. *The Chairman*: That is a very interesting contribution, Dr. Ambedkar, \* \* \* Might I just try to bring the point to a head by asking Mr.

Turner this one question, and possibly when we take the Memorandum on the Depressed Classes we may be able to get Mr. Turner part of the time to be available in case we want some information. What I should like to know, Mr. Turner, is this: On the whole, do you or do you not think that there has been some advance, some improvement made in your time, or in the last few years if you like, in the direction of better facilities for the Depressed Classes? Do you see any signs of any advance?—Certainly.

65. You have no doubt about it?—I have no doubt about it.

66. I am not asking the question whether you are satisfied with the result, or suggesting that there is not a lot more to do; but I think we should like to know your view as to whether there has been an advance.—Certainly, sir. It would have been unthinkable when I came out that any "untouchable" should be a member of the local municipality or local boards. That is 25 years ago; it would have been unthinkable then.

67. Still, that only affects the individual, who, by his own character or education or qualities, has made himself fit for such an office; but I am rather thinking of the mass of the Depressed Classes. What I want to know is whether you think that there has been, or whether you know if there has been, in your time, more particularly in the last few years, some advance in the provision that the law makes and enforces for better treatment of the Depressed Classes as a whole. I am not speaking merely of nomination or representation on bodies?—Well, I am afraid that as far as the social system goes it is very difficult to say how far there has been an advance, because the strict Hindu, I am afraid, is as strict now as he ever was, though he often professes publicly to be much more liberal than he really is.

68. Of course, we all appreciate that legislation and administration are not always effective instruments for producing immense and prompt changes of social attitude, but still, there are some things which legislators and administrators can do. You have mentioned some,—the possibility of a law which provides that public wells should be available for all, including the Depressed Classes, or the provision that public schools should be so available. If those things are enforced, you know, undoubtedly they are a very material element in improvement, and what I wanted to know, quite generally, was whether you thought there had been some advance in actual results in securing in those ways effectively better treatment for the Depressed Classes?—Yes, I think one can say fairly that there has been some advance. I cannot go much further than that.

69. It is no good passing a law, you know, if it is not observed?—With regard to schools, for instance, I think we have been successful. Only in five schools in the Surat district, they still insist upon the Depressed Class children sitting apart from the other classes.

70. Assuming what you say about that is accurate, does that indicate a material change from what we should have found had we been in this country 25 years ago?—I should say yes, as far as my memory of Gujarat goes 25 years ago, when even a Depressed Class witness was made to stand outside on the verandah, and was not allowed to stand in the same room with the others.

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71. *Lord Burnham*: How far does your answer apply to the normal life of villages?—There it is quite another thing altogether. I doubt very much whether the social system of the village has been touched. In the bigger cities I think possibly some advance has been made.

*The Chairman*: Thank you very much. That is very similar to some other evidence I had heard. I thought there was a considerable distinction between the great cities and the country districts.

72. *Dr. Ambedkar*: You were talking about admission of the children of the Depressed Classes to the schools, and recently an attempt was made by members of the Depressed Classes in a particular village to have their children seated in the school, and I think an entire social boycott was proclaimed against them by the villagers, so that the District Deputy Collector had to intervene, and finally the settlement was that there should be a verandah outside, and that the children of the Depressed Classes should sit there. That was only last week.—That is certainly quite possible.

73. *Sir Hari Singh Gour*: A good deal of your time has been taken up by these communal questions, Hindu and Muhammadan questions, and Brahmin and non-Brahmin questions. Do not you think that the remedy for all these questions is increased education?—Exactly so.

74. If you will kindly turn to Part I, paragraph 28, at page 25, so far as your Government is concerned I note the following satisfactory progress: "The sudden increase of 17 per cent. during the last year is due to the fact that several schemes for the expansion of primary education and for the introduction of compulsory education have been introduced over large areas during this period." Do you think that a great impetus has been given to education in consequence of the Chelmsford Reforms?—I would not say it was due to that, because I think the awakening was coming before the Report. Amongst the Mahrattas, certainly, it was coming, and even amongst the Depressed Classes.

75. Do you think it has been stimulated by the advent of the Report?—Well, it may have been. It is difficult to say that.

76. It led the people to hope that they were going to be participators in the administration of their country, and that they must better qualify themselves for that responsibility?—It aroused in them hopes of getting more jobs in government service.

77. *Khan Bahadur S. N. Bhutto*: I think you were making some derogatory remarks about the Indian local authorities?—There are one or two which are functioning very well indeed. On the whole I should say there has been a fall in efficiency during the last seven or eight years.

78. During Indian control?—Yes.

79. Can you give us an instance so far as the municipalities in Sind are concerned?—Well, I have never worked in Sind.

80. You excluded Sind in your answer to a question put to you, and therefore, when you exclude Sind, I should like to know whether in Sind, by reason of this communal representation, you think there has been any change in the policy of the local authorities?—There has certainly been a change in the direction of employing Muhammadans, I think, in place of Amils.

81. In districts where there are Moslems?—Yes.

82. I am asking about municipalities?—No, I do not think so in municipalities.

83. You say that even arrears are due to communal representation. Do not you know that it is provided in the Act that anyone who is in arrears can be disqualified for not paying the taxes within a certain limit of time?—There is that provision, but it is not enforced, especially in the case of Members of the Councils themselves.

84. Then by this communal representation there has been no change in the policy of the local authori-

ties; so why should efficiency suffer because various communities are represented? There is no reason at all that there should be any change in policy; the same party remains in power; is it not the case, that before this communal representation, that particular party or community which was in power was guilty of maladministration or inefficiency, and it is only by securing this little representation of minorities that the previously existing inefficiency has come to light? As the Press has been monopolised and owned by that party, which was in power, the maladministration did not come to light; it has only come to light after this representation has been granted to minor communities?—Am I to understand that your meaning is that these boards were always inefficient, and it is only the representation of minorities which has brought the inefficiency out?

85. Well, is not that so?—Is that what you mean?

86. Because there was otherwise no way to find out the maladministration: they had the monopoly of the Press?—Well, I would just call one fact to your attention, Khan Bahadur. In 1916 the arrears of tax uncollected amounted to 3 lakhs; in 1925–26 I think it was 16 lakhs.

89. *Khan Bahadur S. N. Bhutto*: But the administration has remained in the same community; there has been no change?—The only other reason, bar communalism, as far as I can see, is the general fall in the efficiency of the administration of the district.

90. But communal representation has nothing to do with it, because by a representation of only one or two they cannot cause all these arrears?—That may not be so, but it does increase communal tension.

91. Give me an instance?—I think it is very difficult to give instances, but surely the present state of India is a pretty staring example that there is communal tension all over the place.

92. But this is not necessarily due to communal representation?—My view is that communal representation does tend to intensify it.

*The Chairman*: We have always to remember that a witness is only a witness, and that we cannot ask questions until we have changed his opinion. Now, as I understand the witness's view, it is this. He said yesterday that when he spoke of communal representation, when he spoke of a fall or deterioration in municipal administration, what he had rather in mind was communalism, which is not the same thing as communal representation. It means, I suppose, the strong rivalry in public life of different communities, and the strong tendency of a particular community, as it were, to play for its own hand, to support its own friends. That is what one means, I suppose, by communalism, and therefore, what the witness said was that that was, unfortunately, a cause of inefficiency in administration.

The other thing I understood the witness to say was, in his opinion, for what it is worth—it is not necessarily other people's view—"I still think that communal representation in the local bodies rather aggravates the position." (To the Witness): I do not know whether I put your view correctly?—Yes.

93. *Khan Bahadur S. N. Bhutto*: Do you know that school local boards cannot spend a rupee without the previous sanction of the Government?—That is so.

94. Is not it the case that district local boards cannot appoint any of their higher officials unless the appointment is approved by Government?—In the case of district local boards you are right.

95. And the administrators of the school boards?—Yes.

96. Therefore it is only when the appointment is approved by Government that we can appoint them?—Yes.

97. If they are found inefficient, it means that Government is equally responsible for that, because

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of their approval of the appointment to the post of the man that is selected?—That is so.

98. Is it not the case that in most cases Government have offered their most competent and experienced officers?—In some cases they have been accepted.

99. Wherever they have offered their own officials, at least so far as Sind is concerned, the Government officials have been accepted in every district?—It has been exactly the reverse: in very few districts have they accepted them. We have had great difficulty in placing them anywhere. But I can tell you one thing I do know, even of Sind. There was a certain district to which a Hindu officer was given. I believe him to have tried his best, and to have been tactful and to have done his best, but within the year he had to ask to be relieved.

100. Is not that due to the fact that during all these eighty-two or ninety years during the British raj, this community has lost all the confidence of their minor communities, and there has been no progress in their education, so that they cannot trust them further? Is not the state of education among the depressed people and the non-Brahmins due to this that advanced class people have been in control?—I think perhaps it has contributed towards that result.

101. Is it not true that when the district local board spends any money, or passes any resolution, they have to communicate their resolution immediately to the Collector and Commissioner, and the Commissioner has power to suspend it if it is not considered reasonable?—In the district local board on paper he has that power, but I think I said yesterday that that is rather a paper control than a real control.

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102. *Sir Hari Singh Gour*: In reply to the Khan Bahadur's question you said that the Government is equally responsible with the local bodies for the employment of inefficient men. May I ask you this question: Would the Government be popular if it went on overruling the local bodies when the local bodies had made it a rule to place unanimity before efficiency?—No; the Minister has got to think of that. That is the trouble. The Minister very often belongs to the party which is predominant in the local body, and he is put in a very awkward position. I do not say that cases have not occurred where the Minister has given approval to an appointment which personally I should not have approved, but still, you have got to see his point of view. He is dependent on his party, and that has been the result.

103. In other words, what you mean to convey is that this communalism even tends to influence the judgment of the Ministers?—Well, it must.

Consequently there is not only the loss of efficiency in the services, but there is the loss of efficiency all along the line?

104. *The Chairman*: I see the point. I just wanted, on the same point, to get this clear. In this country, India, one often speaks of Government, and no doubt it is a very mysterious and potent force, but when one says that these local bodies have to have the approval of Government, I want to understand what it is that happens. Will it be the Minister of Local Self-Government who has to give approval, or will it be the whole Government?—No, the order is actually issued by His Excellency on the advice of his Minister.

105. His Excellency is advised?—Yes.

106. By whom?—By the Minister of Local Self-Government.

\* \* \* \* \*

107. *Major Attlee*: I should like to put this question on the deterioration of administration of local self-governing bodies. I notice at pages 138\* and 139\* the methods of government control. Broadly speaking, would I be right in saying that the Government have given them as wide a scope as possible,

reserving the right to come in when things are very bad indeed?—That has been the policy.

108. Am I right in saying that of late years the Collector has tended to be a bird of passage in the districts—that the average period of duty of a Collector in any one district is comparatively short?—That is true.

109. And the Collector is the chief instrument of Government for bringing influence and advice to bear on the local bodies?—He is the man.

110. And you say you remove the official Chairman and at the same time you enfranchise a large part of the community, thus bringing into the bodies a large number of rather less experienced administrators on to these bodies?—That is so.

111. And therefore would it not be right to say that those bodies starting rather afresh rather lack constructive guidance?—I think so and that is my opinion.

112. And you think the district officer, who is a bird of passage, would be rather shy to interfere?—Yes.

113. You have not the regular inspectorate as we have at home, coming down and advising?—No, we have not. He would not only be shy of interfering, but he was told that he should not interfere more than he could help.

114. Just one point more, and that is, has the Minister of Local Self-Government endeavoured by circulars or by sending down experts and so on to assist the local boards in developing, or is he content to set them going and stand by and see how they do?—I think rather the latter is the case, the idea being to try and get them to stand on their own legs. That is a very nice ideal.

115. *The Chairman*: I wanted to put a question on municipal finance, and again I say it is not because I imagine that the Commission's own report or recommendations will touch this point in any constructive or revising sense, but to help to get the picture and see what it is we are talking about. Would you turn to p. 117\*? You have got the heading "Municipal Finance," and as one would suppose the finance of the municipalities seems to be raised partly by what we call in England local rates or municipal rates and partly by grants from Government?—Yes.

116. Those are the two sources, I suppose?—Yes.

117. As regards the municipal taxes or rates, apparently the most common one is the house tax; is that right?—Yes, it is the most common.

118. And it is the most direct tax?—Yes.

119. There is of course one other source of municipal revenue, Government grants?—Yes.

120. As far as education goes we are not dealing with that just now. Grants of course are from the Government to municipalities in partial support of their education and instruction?—Yes.

121. Now let us take other parts of the municipalities' necessary life. I take for an example, water supply. What happens in this Presidency supposing any moderate-sized town with its municipality decides to go in for improved water supply involving of course a large capital outlay? I would just like to understand how they would set about that. How do they finance it?—They finance it partly by loans and partly, if they can get grants, by grants from Government, most of them.

122. Are there cases where the Government refuse the grants?—The policy which was started about twenty years ago is still nominally in force. In those days local bodies were rather loath to go in for these amenities, and Government adopted the policy of giving grants-in-aid up to 50 per cent. of the total cost of any scheme which a local body would introduce. The total cost of the schemes which were then under consideration was, I think, roughly about 40 lakhs of rupees, and that policy of giving 50 per cent. grants was feasible up till the war time, when owing to the cost of these works going up enormously the grants-in-aid naturally proportionately increased and Government have steadily found themselves more and more in difficulty in meeting these demands



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for grants, especially as the municipalities are by no means loath to go in for these amenities if they can possibly get the grants, and the cost of the schemes has gone up excessively. I may say that at the present time there are three big municipalities with schemes the cost of which averages about 60 lakhs of rupees, and I think the total cost of the schemes which have been technically sanctioned roughly amounts to 2 crores of rupees and it is utterly impossible for the Local Government to meet 50 per cent. grants up to that amount.

123. So in the present situation and at the present level of prices and the like, and the other claims on Government funds, if really municipalities are going in for an outlay for these improved amenities, the receiving of grants from Government up to 50 per cent. is by no means to be counted on?—No. I think Mr. Wiles\* will bear me out in that. (Mr. Wiles): That is so. We have had to draw a definite distinction between major and minor municipalities in this matter.

124. I suppose a municipality can raise a Loan?—(Mr. Turner): Yes, the bigger ones. Ahmedabad and Karachi had raised loans.

125. On the security of their rates and municipal buildings?—Yes.

126. Mr. Cadogan: By sanction of the Government?—Yes.

127. The Chairman: They raised the money?—They have, yes.

128. Are there cases in which schemes have been taken up by municipalities but are not being carried out because they are not getting Government grants?—There are; Surat is one.

129. I make an observation that that is by no means peculiar to India; rate-payers are very willing to spend money if somebody else would provide it?—Yes.

130. What I particularly want to ask you about is this. Looking at p. 118† of your book, you say:—“The list of municipal wants, which appears to grow larger each year, shows that the municipal bodies are still a long way from satisfying the demands of their citizens.” I will read the next sentence in a moment. Do I understand, and I gather Mr. Wiles confirms you, that those demands on matters of local amenities can hardly be financed from central funds? Is that right, Mr. Wiles?—(Mr. Wiles): Yes.

131. Therefore if the demands of the citizens are going to be met, apparently they can only be met if the municipality is empowered and is prepared to raise by municipal rates or local taxes the money?—(Mr. Turner): Yes.

132. What I should like to know is this. In your general experience do you think that the failure of municipalities to find money for these schemes more readily is due to want of power to raise the money or it is due to unwillingness on the part of the citizens to incur the extra burden? Which is it?—I think it is mainly due to the unwillingness to incur the extra burden. At the same time there is difficulty in finding suitable sources of taxation outside the sources already tapped.

133. As regards sources of municipal taxes, have you got any suggestions to make about that?—The present taxes open to the local bodies are what they call the scheduled taxes and outside the house tax, the octroi and the terminal tax, and for the district local boards except the local fund cess there is really no other source so far as I can see which is likely to be of any great profit to the local bodies. They have, for instance, the profession tax.

134. Looking at the next sentence which I promised to read, on page 119† of your book, we find:—“It is clear that the demand for modern amenities on the part of the public has outrun the resources both of the local bodies and of the Provincial Government.” What I wanted to be clear about

was whether in your view the remedy for that was giving the municipality more powers of taxation or whether, on the other hand, even if they had more powers of taxation the view of the citizens would be such as would make it difficult to impose more taxes?—Well, it is very difficult to say whether if they had more powers the citizens would be willing to accept more taxation. I am rather doubtful on that point. But it gives them a very strong argument for saying that they cannot get on without Government grants when they can show that with the help of the taxes which they may impose they cannot raise the revenue.

135. I would like to ask a question on a totally different subject which you find is the topic clearly dealt with in a chapter which is only very incidentally relevant to-day, Chapter VI, Indianisation of Services.\* I just wanted to be quite clear. We know about the Lee Commission's report. We know about the decisions taken on it. We know the scheme there laid down is the scheme that will work out and come to a conclusion in, I think, 1939. I merely want to get the picture. Here in the Presidency of Bombay you will have I suppose some civil servants who are All-India officials?—Yes.

136. Secured under the Government of India Act?—Yes.

137. Then you will have other officials who will, if I understand rightly, be provincial servants?—That is so.

138. I do not want to argue about it. Can you tell me first of all as regards All-India services (who will be the I.C.S., and I suppose, the Police service and several other things), what is the approximate strength now?—The actual cadre of the I.C.S. is 136 at the present moment.

139. In the Presidency?—Not all employed in the Presidency. That includes officers deputed to the Government of India.

140. Who have been lent to the Government of India?—Yes.

141. Then we shall get the right picture if we to-day regard the Presidency of Bombay as having something like 130 I.C.S. people?—It is actually less than that. It is actually 121.

142. Lord Burnham: I see on page 240\* at the bottom a sentence which reads:—“The Indian Civil Service cadre on the Civil List of October, 1927, consists of 107 Europeans and 28 Indians . . .” Didn't you say 130?—136. I was thinking of the total number of Europeans.

143. The Chairman: I asked about I.C.S. I am not thinking at the moment of Europeans only. I want to know how many I.C.S. people there are. It comes, then, to about 130?—In the last Quarterly Civil List it is 136.

144. We have now an idea as to how it works out so far as regards the distribution between Indians and Europeans are concerned—50 to 50 per cent. to be reached in 1939. Now would you tell me about the Provincial Service in this Presidency. No doubt it goes down to a large number of officers on the lower rank, but is there any sort of figure which you can give me?—The strength of the Deputy Collectors, who correspond to the I.C.S. Assistant Collectors, is 87.

145. Let me see if I understand that correctly. You have 27 districts in Bombay. Am I right in thinking that in such a district, ordinarily speaking, you will have a Collector, and then you will have sub-divisions of the district—three, say?—It may be three, and sometimes two.

146. And therefore to help the Collector you will have an Assistant Collector, or a Deputy Collector, in each sub-division?—That is so.

147. And do I understand rightly that an Assistant Collector is an I.C.S. man?—Yes.

148. But a Deputy Collector is a Provincial Service man?—Yes.

149. So that in any given district it may happen that a sub-division of the district is in charge of an officer of the Provincial Service, who would be a

\* Mr. Gilbert Wiles, I.C.S., Secretary to the Government of Bombay, Finance Department. His evidence is printed on pages 25 and 49.

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Deputy Collector, or in charge of an I.C.S. official who will be an Assistant Collector. Is that correct?—Yes.

150. Now then we want to come to the point which Viscount Burnham and myself have in view. As regards the Provincial Service first of all, is there any recruiting in England at all at present?—None at all.

151. So that we may take it in substance that the Provincial Service is an Indian service?—Yes.

152. I do not know if there is any exception at all. One can imagine a case where we may require a specialist?—In that case specialists might be got out.

153. I suppose it is done through the High Commissioner?—Yes.

154. But may we take it broadly that a Provincial service is an Indian service?—Yes, but it may also include what are called domiciled Europeans and Anglo-Indians.

155. Yes, it is important to note that. And so far as that Indian service goes, is it a new feature, or has it been so for a long time?—No; it has been so for a long time.

156. Now we will go back to the All-India services. You have given us the figure of the I.C.S. people?—Yes.

157. But there will be others also of the Provincial Service: What are the others?—Yes; in the district, the District Superintendent of Police, the Executive Engineer; and in certain districts the Civil Surgeon would be a member of the I.M.S.

158. That is an All-India service?—Yes.

159. I do not go into detail, but I imagine that there will be some people who are Europeans and some people Indians?—Yes.

160. Now let us take the I.C.S., of which you have given the figure as 136. You have got the latest list there. In fact in the Presidency to-day how many of the I.C.S. are Europeans and how many are Indians?—31 Indians and the remainder are Europeans.

\* \* \* \* \*

161. *Sardar Shivdev Singh Uberoi*: At page 246\* we find from Appendix B relating to the Indian Police Service that since 1926 there has not been any increase in the appointment of Indians in that service. May I ask Mr. Turner what it is due to?—I am afraid I cannot answer that question. It is in charge of the Secretary in the Home Department.

162. In the Indian Veterinary Service (Appendix G\*), we find that the whole cadre is 3, and there is not a single Indian on that cadre. Is that a fact?—I may again say, sir, that it is the Secretary of the Revenue Department that is responsible for that. I believe it is correct.

163. *The Chairman*: I suppose all these appendices are correct, as printed?—I may point out that all European recruitment in England for the All-India Services in the Transferred departments has been stopped since 1924.

164. That is important. What about Education and Medical?—No, Medical is a separate service.

165. *Major Atlee*: Am I right in saying this, that some of these services, like the Veterinary Service, are dying services? The new provincial cadres are being built up and the old are just a remainder from the previous scheme?—That is so.

*The Chairman*: Does that mean that under a different classification you get Indians?

*Major Atlee*: That is what I am given to understand.

*Witness*: We are building up a provincial service to take the place of these All-India services.

*The Chairman*: This is one of the dying services. You have only got three or four people there. But, as a matter of fact, for the future the service will not be All-India but will be provincial, and, being provincial, it will be an Indian service. I think that is the explanation that *Sardar Uberoi* wanted.

166. *Lord Burnham*: I would like to ask Mr. Turner first of all whether the term "Indianisation

of Services" has been defined for the purposes of Government? What does it mean?—It means appointing Indians in the place of Europeans.

167. Exclusively Indians?—Anglo-Indians also.

168. Putting the Anglo-Indian along with the Indian, you mean it is an exclusively Indian appointment?—Yes. Indianisation figures vary in different cadres, but it means the substitution of Indians for Europeans.

169. And that is your explanation when you wrote your chapter in this book on Indianisation of Services?—Yes.

170. Do I understand that since certain services have been transferred there have been no Europeans recruited for those services?—That is so, sir. In fact in all the departments which have been transferred, except Medical, all recruitment in Europe has been stopped.

171. And there is no recruitment of Europeans here?—Occasionally we may have Europeans. In the Education Department, for instance, we have recruited a Professor, a European, from one of the Missionary colleges. He was an expert. We wanted him for a certain subject.

172. Is that a rule laid down by the Bombay Government?—(*Mr. Wiles*): It is the Government of India, I think. (*Mr. Turner*): I think, as far as I remember, that it is the Secretary of State who has stopped all recruitment in England in all those departments.

173. Does that mean all European recruitment?—Yes.

174. It may not, perhaps, be fair to ask you matters of opinion, and therefore I do not do it, but I suppose that is already altering, as we see by the figures, the balance of appointments throughout all the departments?—Yes, undoubtedly.

175. Where you require special qualifications—say, as in Agriculture—has any attempt been made to secure a man irrespective of his being an Indian or a European, or is an Indian appointed as a matter of course?—As a rule, if a post is vacant now, anyone can apply. The terms are stated and selections are made from those who apply.

176. I notice that the Royal Commission on Agriculture which has just reported speaks of the immense importance of getting a man with special qualifications to certain posts?—Yes.

177. Have you any experience of that kind here?—In the Education Department we did give special terms in certain appointments.

178. Was it a short-term appointment?—Yes.

179. Without any guarantee of tenure?—Yes, without any guarantee of tenure.

180. Did they get any bonus if their work was satisfactory?—No. If he were a European, he got his passage home.

181. Well, the issue briefly is that so far as all the Provincial services go in the Transferred departments they will be wholly staffed by Indians. Is that so?—In the Education Department, for example, in at least twenty years it will be wholly staffed by Indians.

182. You said in answer to the Chairman, or rather I understood you to say, that as regards provincial appointments there has not been so much of a change except in the Transferred departments. Do I understand you correctly?—Provincial Services have always been under the Provincial Governments.

183. They were always held by Indians?—Sometimes appointments have been made from outside, but such appointments were very rarely made.

184. Which of the Provincial Services that has been transferred is clearly in the position you just described?—Take the Education Department. Formerly the head of the department, the Director of Public Instruction, the Deputy Director of Public Instruction, the Inspectors of Schools, the heads of Colleges were all members of the Indian Educational Service and were recruited by the Secretary of State. Now, that department has been transferred to the Local Government. In future, all the appointments

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in that department must belong to the Provincial Services. There will be a remnant of the All-India Service who will still be working under their original agreement with the Secretary of State. That will gradually disappear. But the new services which will take their place will be purely Provincial Services. We are now preparing the terms—pay and conditions of service—which shall be granted to these services. The new rules are now practically ready for sanction. But these new Provincial Services will not, so far as I can see, be at all attractive to Europeans.

185. It will hardly be fair to ask you whether that will involve a sacrifice of efficiency. But so far as the terms are lower and less attractive, they won't attract the same class of men?—Not the same class of Europeans, certainly.

186. *The Chairman*: Let us take one of the departments of Government which is now a Transferred Department. Let us take the Local Self-Government Department. Do I understand you rightly that in fifteen years to come you would find the officers who were working in that Department partly All-India officials, I.C.S. men who have been located in this part of India, there will still be left a number of I.C.S. men who may of course be Europeans or Indians (because Indians may be in the I.C.S. also), and also partly of course people recruited in the province. But for the future the recruitment will be provincial.—That is so.

187. Since provincial recruitment is for all practical purposes to be exclusively Indian it follows when the I.C.S. work their time out, then you will have the services administered by Indian officers who will be all Provincial Service officers?—That is exactly the position.

188. *Colonel Lane-Fox*: Please refer to page 247 of the Memorandum.\* The number of Europeans in the Forest Service has decreased from 28 to 21. Does that mean that recruitment in the Forest Service is steadily decreasing?—All recruitment of Europeans has been stopped.

189. *The Chairman*: I thought that this Appendix was dealing only with the All-India people. Is not that so?—That is so.

190. The forests in the Bombay Presidency are transferred. I suppose provincial people are also recruited?—Provided local candidates are forthcoming.

191. *Lord Strathcona*: Will you please refer to page 241 at the bottom of paragraph 236\*? If you cannot find Indians for these posts—you said, I think, that All-India recruitment would be stopped—what would you do?—If we want Europeans as experts they will be given better terms. The new services we are now working out are to be (i) Provincial Service, Class I, which is to take the place of the All-India Service, and (ii) Provincial Service, Class II, the terms of which are not likely, I think, to attract the class of Europeans who were attracted by the All-India terms, especially if there is not to be any security of tenure.

192. These statistics are all about Indianisation. Is it a fact that the explanation of the figures given on page 248\* is that in the province there are no Indians who are qualified to fill these posts?—Those are the remnant of the All-India service.

*The Chairman*: I understand that the explanation is that there were two sources of appointments:—One source which was in the old days the main source, what is called the All-India service, that is to say, people who were examined in England (now they are examined at Allahabad too) and became I.C.S. men. But there is a second source, which is not shown in this Appendix at all.

193. *Colonel Lane-Fox*: Is there any table which will give the actual proportion?—I do not think so.

*The Chairman* (to the witness): I dare say you will get someone in the Secretariat to find out the figures.†

194. *Major Attlee*: You have got a very large area in the Bombay Presidency. You have got four main languages spoken in it. Now, do you find that a man in the Karnatic is always ready to be moved up to Sind?—He would object to being transferred to Sind.

195. There is, then, a tendency for the Indians to be held up at certain places while the Europeans would not mind being moved to any place. Therefore the Indians would not progress from place to place as the Europeans would do?—Yes, there is such a tendency.

196. Taking the services as a whole in the Karnatic, would they not tend to be predominantly local men?—Yes, they would be predominantly Karnatic. I know of a case recently where a Karnatic man was transferred to the Central Division. I think he only stayed there two years. Then he managed to get back.

197. Is it not a disadvantage to an Indian when he wants to come on to a superior post, when a superior post becomes vacant?—Yes, it would be a disadvantage. But I must just point out that the Indian members of the I.C.S. have to be just as mobile as the European members of the I.C.S.

198. They do not necessarily come from this province at all?—That is true. But even if they came from this province they have got to move about just as much as others do.

199. Looking ahead to a further process of Indianisation, would not the number of languages in this Province be a disadvantage?—Yes.

200. If you want to get to the top of the tree, for instance?—It does not follow.

201. That is certainly going to hamper the Indian more than the European?—Yes, it may be so.

202. *Mr. Cadogan*: I only want to ask one question. I understood Mr. Turner to say that in the All-India services as a rule if a place falls vacant it is filled up by the appointment of an Indian?—In the Transferred departments?

203. Yes?—That is so.

204. Then how is it possible to give effect to the recommendations of the Lee Commission? How is that worked?—That does not apply to the Provincial Services.

#### APPENDIX.

(Vide Answer to Q. 193).

Statement showing the proportion of appointments in the Imperial and Provincial Forest Service.

| Post                                      | Total No. of Appts. | No. of Europeans. | No. of Indians. |
|-------------------------------------------|---------------------|-------------------|-----------------|
| IMPERIAL FOREST SERVICE.                  |                     |                   |                 |
| Chief Conservator of Forests .. ..        | 1                   | 1                 | —               |
| Conservators .. ..                        | 4                   | 4                 | —               |
| Deputy Conservators .. ..                 | 22                  | 16                | 6               |
|                                           | 27                  | 21                | 6               |
| PROVINCIAL FOREST SERVICE.                |                     |                   |                 |
| Extra Deputy Conservator of Forests .. .. | 1                   | —                 | 1               |
| Extra Assistant Conservators .. ..        | 21                  | —                 | 21              |
| Probationers .. ..                        | 4                   | —                 | 4               |
|                                           | 26                  | —                 | 26              |

#### PERCENTAGE OF APPOINTMENTS.

|                              |    |
|------------------------------|----|
| Imperial Forest Service ..   | 51 |
| Provincial Forest Service .. | 49 |

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† Vide Appendix on this page.

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[Continued.]

## Afternoon.

1. *Khan Badahur S. N. Bhutto*: As far as Indianisation is concerned, I should like to know whether all communities, castes and creeds are represented in it, or only one small class of one community?—The majority are of the Brahmin class.

2. Is it only one small class of one community which takes advantage of it and monopolises it?—Certainly the majority are of the Brahmin class, and of the Amils in Sind. That is because they are so very much advanced in education.

3. Was it fair to stop European recruitment in Transferred departments altogether until the other minority communities had their candidates ready to take a share in the administration?—You are getting some of your men in now; I do not think it is fair to say you are getting none in.

For instance, the Irrigation Department, P.W.D., is a most important department?

4. *The Chairman*: The Irrigation Department is not a Transferred department, is it?—No.

5. *Khan Badahur S. N. Bhutto*: The P.W.D. is—one part of it?—Yes, roads and buildings.

*The Chairman*: I thought you said Irrigation.

6. *Khan Badahur S. N. Bhutto*: If you consider the figures you will see that apart from European recruitment about 90 to 95 per cent. of the posts are monopolised by one particular class?—Yes, I think that is so.

7. *Dr. B. R. Ambedkar*: The same applied in the subordinate services, more or less—that the services are more or less monopolised by one particular community?—That used to be the fact. I would not say it was now.

8. Statistically speaking, the majority belong to one particular community?—That is so.

9. *Syed Miran Muhammad Shah*: What is the percentage fixed for the Mussulman community in the services?—I do not think any percentage has been fixed for the Mussulmans themselves; it is fixed for Brahmins and non-Brahmins. No definite percentage, so far as I know, has been fixed for the Muhammadans.

10. What is the reason?—We are trying to work up to 50-50 for Brahmins and non-Brahmins.

11. Have you got the Muhammadans up to 50 per cent. yet?—Not yet. We have had these orders in force only for the last 7 or 8 years.

12. *The Chairman*: Would you just explain that a little further? You ask what is the percentage fixed, and I want to have it quite clear, for my information. What does this mean, Mr. Turner? Is there a percentage fixed by somebody?—Government have issued orders that in making appointments every effort should be made to give every chance to all classes, and in order to encourage the backward classes heads of offices are requested wherever suitable candidates are available to appoint the backward classes up to 50 per cent.

13. Is that without regard to the respective size of the different communities?—I do not think any effort has been made so far to discriminate between the different communities.

14. I gather for this purpose you would call the Muhammadans a backward class, backward from the point of view of education?—Yes.

15. What others would be included besides Muhammadans?—The Muhammadans would be classed as what we call intermediate, not backward.

16. Then when you say 50 per cent. are reserved for the backward classes, that does not include Muhammadans?—I meant 50 per cent. for the advanced, and 50 per cent. for the intermediate and backward.

17. I do not quite understand how there can be 50 per cent. 3 times over?—No. 50 per cent. for the advanced, and 50 per cent. for the intermediate and backward, taken together.

18. It comes to this. Your notion is that if satis-

factory candidates are forthcoming, half the total appointments should go to those who are not members of the advanced classes?—Yes.

19. That does mean they should go to a body which includes the Muhammadans?—Yes.

20. Then I was right when I said that for that purpose the Muhammadans were regarded as a backward class?—Yes, you can call them that. There is a difference between intermediate and backward.

21. I am quite content. It is the general direction that if possible 50 per cent. of the posts shall be reserved to be filled by persons who belong either to the backward or intermediate classes?—Yes.

22. Is that right?—Yes.

23. I want to know how that in fact works out. Does it in fact work out in that way?—It is working out in that way, I think. We have just recently reviewed the effect of the orders, and as far as Government can find out the orders are being obeyed as far as suitable candidates are available.

24. Within what range of appointments does this apply? I mean, I suppose they are all appointments made by the Provincial Government?—Yes. It applies from appointments of Deputy Collector rank down to the clerks.

25. *Khan Bahadur S. N. Bhutto*: There are two separate orders, one for Sind and one for the Presidency proper. In Sind the proportion of Muhammadans is 74 to 76 per cent., but their proportion in the services is about 4 to 5 per cent., so therefore there is an order for Sind that there Mussulmans should be given at least 50 per cent., but it remains on paper yet?—Yes.

26. There is an order in the Presidency applying to Brahmins and non-Brahmins?—That is so.

27. *Dr. B. R. Ambedkar*: This applies only to clerks' posts, not to the provincial services?—In the Provincial Services we sometimes go to even more than 50 per cent.

28. The orders were issued in response to a resolution, and the resolution was confined to clerks' posts?—That is right, but so far as the superior deputy-collector rank goes, appointments of non-Brahmins are very often in excess of 50 per cent.

29. *A Member of the Provincial Committee*: I think the Government always takes a sympathetic attitude in making appointments so far as non-Brahmins are concerned in the matter of the Provincial Services?—Yes.

30. Can you give me the number during the last ten years?—I am afraid I cannot.

31. *Syed Miran Muhammad Shah*: Has the Indianisation of the services affected the standard of efficiency of administration?—So far Indianisation of the All-India services has not gone to such an extent, I think, as to say it has actually led to deterioration in efficiency. The majority of the Indians are men who have been recently recruited and are holding subordinate posts only. They have not yet risen to the posts of responsibility, where their real worth will be tried.

32. Do you make any difference between those directly recruited and those promoted from the ranks?—In what sense do you mean?

33. In the sense of efficiency?—Using efficiency in the sense that you want men who know their job, the promoted man is the better; but if you want a higher standard of, shall I call it honour or honesty, I think possibly the direct recruit may surpass the promoted man.

34. *Sir Hari Singh Gour*: When answering the last question, you meant time has not elapsed sufficiently to enable you to judge of the measure of inefficiency that is produced by the introduction of communal recruitment?—Yes.

35. Is not it a fact that certain communities have a special aptitude for certain work? Do not the Muhammadans, for instance, possess a special aptitude

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for police work, and the Madrasis for finance?—Yes.

36. You cannot keep out the Madrasis, for instance, from the Finance Department of your Government or the Government of India or Posts and Telegraphs?—It is very difficult to do so.

37. *The Chairman*: Are there any Madrasis in the Bombay Government service?—There are in the secretariat.

38. *Sir Hari Singh Gour*: The Government of India is full of them in the Finance Department and very rightly, because they possess a special aptitude for that branch of public service. Now, when you have introduced the scale of 50 per cent, and it applies to all classes, how will you be able to reconcile these communal claims up to 50 per cent with the special classes of the community that possess special aptitude for certain branches of the administration?—It is very difficult.

39. In other words, each introduction of these artificial rules, these rules by which a certain community will have a certain percentage of posts in the services, adds to the difficulties of administration?—Yes.

40. And they endanger the efficiency of the services all round?—Ultimately I think they must do so.

41. You are not in favour of special protection in the services; you would have free trade and give the best man the best chance?—From the point of view of efficiency, certainly.

42. And from the point of view of the interests of the public service generally?—Yes.

43. This order was very recently passed by the Government of India under pressure from the Legislative Assembly—this order by the Home Department about communal claims?—Yes.

44. Very recently?—Yes.

45. And in about three years, therefore, so far as your Government is concerned, sufficient experience has not been gained to judge of the nature and effect of the inefficiency that has been introduced by the introduction of this new method of recruitment?—We have been trying this for a longer period than that.

46. But it was crystallised into a definite rule three years ago?—I cannot give you the date of the definite orders, but we have been working on this basis of giving preference where possible to the minorities in recruitment for a longer period than three years. Honestly, I am afraid I must admit it has not tended to increase efficiency.

47. Nor to maintain the ordinary standard of efficiency to which your Government was accustomed before the introduction of communal representation in the services?—That is so.

48. *Nawab Sir Zulfiqar Ali Khan*: You said in your statement that in the I.C.S. cadre of 136 there were only 31 Indians?—Yes.

49. Most of them are Europeans?—Yes.

50. May I know how many out of those 31 belong to different communities?—They are of all communities, I think.

51. I should like to know the exact numbers?—There is very fair representation. There are Brahmins, Bengalis, Punjabi Muhammadans, Parsis, Amils, Muhammadans and Banias.

52. You cannot give the exact figures?—I can count them up if you will give me time.

53. *The Chairman*: Perhaps we can save time by asking the witness, after leaving the box, to let the secretariat have the figures, which will be supplied to each group. Will you kindly do that for us, Mr. Turner, or get somebody to do it?—Yes.\*

54. *Nawab Sir Zulfiqar Ali Khan*: Can you tell me whether during communal disturbances in this Presidency there was any complaint made about the treatment of one community by the officers of the other community?—There was.

55. For example, did the Muhammadans complain

of their treatment by Hindu officers or the Hindus of their treatment by Muhammadan officers?—In the case I am thinking of, the Hindus complained of the treatment by Muhammadan officers.

56. *The Chairman*: Where was that?—In Godhra in the Panch Mahals.

57. *Nawab Sir Zulfiqar Ali Khan*: Was there no complaint made by Muhammadans?—No.

58. Can you tell me if, from the point of view of efficiency, we can make any distinction between a Hindu and a Muhammadan?—It depends on the work which they have to do. In the case of police, I should prefer a Muhammadan as a rule. In the case of clerical work there is no question a Brahmin is the best you can get.

59. Could you tell me whether, from the point of view of efficiency, a European is not more efficient than an Indian?—It is rather a difficult question for a European to answer.

*The Chairman*: Do not you think probably there are so many varieties amongst all of us that there can be no general answer to that question?

*The Witness*: May I say that the European has the advantage of having no local connections and no local influences of caste or creed.

60. *Nawab Sir Zulfiqar Ali Khan*: That was the information I wanted to get. Now, from that point of view would not you think that the Indianisation of the services suffers on account of considerations of efficiency on this count?—You mean, owing to their local connections?

61. That is to say, the Indianisation of the services would lead to inefficiency?—They are likely to be less independent than we are and less free in their action; less strong in their action, possibly.

62. Do you think that, as my friend Sir Hari Singh Gour asked you, the Madrasis enjoy special aptitude for finance?—One does find them in the Finance Departments, but their special aptitude in Bombay is for shorthand and typewriting. They are the only decent typists and shorthand-writers in Bombay. They are far better than the local men; you cannot get a decent local man.

63. Do not you think if members of the community here were trained in the same thing they would show the same efficiency as the others?—I imagine the Bombay people have just as much chance of learning shorthand-writing and typing as the Madrasis, but they are not so good.

64. With regard to Finance departments, who enjoys the monopoly of the posts?—They are employed in the Finance Department freely, but my own experience is in Bombay that we have some first-class Brahmin graduates in the Finance Department—really first class men who are quite as good as anyone.

65. But this condition of affairs does not exist in other provinces. In the Finance departments of other provinces the Madrasis or Bengalis do not have a monopoly; the others show just as much efficiency in finance as the Madrasis?—They have not a monopoly here, by any means. There are some in the Finance Department here and I know there are some in the Finance Department of the Government of India, where they have a majority, but they are by no means in a majority in our Finance Department.

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69. *Sir Arthur Froom*: I should like to be clear as to the exact method of recruitment to the Provincial Services. I am not speaking about the communal question at all now. Is there any sort of examination, or is it by nomination, or how are they selected?—Partly by promotion from the subordinate ranks and partly by direct recruitment. Taking the Deputy Collector class, for instance, they have a selection committee.

70. And then afterwards is there any efficiency test?—They are put on probation to work as mamlatdars for the first year, and if they are passed as suitable they go on to a sub-divisional charge. If the Collector reports they are not successful, they are

\* See Appendix on page 25.



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kept on as mamlatdars and then after a while if they do not make good they have to move out.

71. So there is a period in their career where the more efficient man is promoted?—Yes.

72. Reverting to the All-India Services, it is a competitive examination?—Yes.

73. Would you infer from that that there is a higher standard in your service than in the Provincial Services?—There certainly used to be.

74. Should we conclude from that that the scheme which has now been going for some time, of reserving the transferred subjects for the Provincial Services, means that you cannot get quite as high an administration—that that necessarily follows? I am not criticising it, but does that necessarily follow?—Yes, I think it does. I can only say, for instance, I remember three or four years ago we had a Selection Board for the appointments to the Provincial Service. Well, several of the candidates who appeared before the Board and were rejected went straight up to the I.C.S. examination in Allahabad. They had been rejected for the Provincial Service and they went up for the I.C.S. Whether they got in or not I cannot say.

75. *The Chairman*: If you do not know what happened to them, it is not very important, is it?—It shows it is the same class.

76. *The Chairman*: I am afraid I do not quite follow that. I do not appreciate what light that throws on anything. To go in for an examination and fail in it does not appear to be a qualification for anything. I mean, how do you prove anything by saying that somebody having failed in one thing has subsequently gone in for another?—Because that type of man would never have thought of competing for the I.C.S. in the old days.

77. And what conclusion do you draw from that?—That the type of man is lower who is now competing for the I.C.S.

78. *Sir Arthur Froom*: I do not follow it if he did not pass his examination. That is the point I want to make whether the administration can be as effective in the absence of any examination, when the posts for the provincial services are filled by administrators with perhaps an efficiency bar on their services, compared with the rather high qualifications that used to be insisted on in the All-India services, whether in the case of Europeans or Indians. The conclusion one might arrive at is that, at any rate for the present, the administration of these transferred subjects cannot be as high as they used to be in the old days?—Yes, that is so.

79. *Dr. Suhrawardy*: I would like to put one question. In reply to Sir Hari Singh Gour you told us that Muhammadans have a special aptitude for police service?—I think they have.

80. Do the Muhammadans form the bulk of police officers in your Presidency?—A very large proportion. I cannot tell you what the proportion is, but a very large proportion.

81. In reply to a question put by Sir Zulfiqar Ali Khan you have just said that the Hindus had complaints against Muhammadan officials in the recent communal riot at Godhra. Does your answer refer to Muhammadan police officers?—Yes.

82. May I take it that it is really a complaint against the police which is very common in this country, not so much against the Muhammadans?—I do not think so, because there was an application made—there was a suggestion of a resolution in Council—that all the Muhammadan police officers should be removed from the district.

83. That is what I wanted to say, that it was against the police officers?—Muhammadan police officers.

84. *The Chairman*: Is this case to which you are referring still *sub judice*?—It is.

*The Chairman*: I am sure you will agree that if it is *sub judice* we had better not ask the official any questions about it.

85. *Dr. Suhrawardy*: Certainly. I want to put another point about efficiency. Would you kindly

tell us whether the principle of the Indianisation of services has been accepted by Government in the interests of efficiency, or is due to political pressure and the pressure of public opinion?—I think they want to meet the natural demand of the Indians to have a bigger share in the administration.

86. Then may I take it that you do consider it a natural demand on the part of the minority communities, who have hitherto been kept out of all services and appointments, if they claim a certain proportion of the loot, by the release of the appointments from the European draft to Indians?—Very natural indeed.

87. *Sir Hari Singh Gour*: In answer to a question just now you said something as to whether a European servant was superior to an Indian servant. Is it not a fact that you have to take a lot into consideration to say whether one is superior? There is the language, the knowledge of the habits and customs of the people, an intimate acquaintance with the class of people he has to deal with, and the nature of the work he has to do, which you must consider before you are able to generalise whether one community or a European is superior to another community or to an Indian?—I quite agree.

*The Chairman*: That is what I suggested, is it not? I think we should agree.

88. *Colonel Lane-Fox*: In view of the difficulties to which these communal questions and appointments give rise, has your Government considered the suggestion of setting up a Public Services Commission which would be above all that sort of thing?—Yes, it has been under consideration.

89. And appoint people on their merits?—It has been under consideration.

90. Probably nothing has been done about it?—Nothing, so far, definite has been done. We have, as I say, these selection boards, but the Minister is not bound by the recommendations of those selection boards.

91. That does not apply to all services? It is one section for each group?—Yes.

92. Of course, the Public Services Commission would deal with all.—Certainly. The trouble is that there is some doubt as to whether a whole-time public service commission in a province would have a whole-time job—whether there would be enough work for them—and it might be rather costly. But the suggestion has been made that the appointments to the new Provincial Services which are to take the place of the All-India Services should be made by the Central Public Service Commission, and divided amongst the provinces.

93. I suppose it would be possible, would it not, even to group provinces?—Yes, something like that would be possible. I think the Ministers themselves would welcome it.

94. Can you tell us how the present selection boards are composed?—Of the selection boards at present the Chief Secretary is the Chairman, the head of the department and one other official expert belonging to the department, and two or three non-officials as a rule. Roughly that is the constitution, I think.

95. When you say the department, which do you mean?—Supposing it is an appointment in the Education Department, the Chief Secretary would be the Chairman, the Director of Public Instruction, another officer of the Education Department, and then possibly three non-officials.

96. That is the selection work?—Yes.

97. *Colonel Lane-Fox*: What is their procedure? Do they interview the various candidates?—Well, it varies in various departments. In the Revenue Department for the post of Deputy Collector we receive a very great number of applications. What happens is that the applications are generally scrutinised first by the Secretary of the department, who strikes out all those who are obviously unsuitable on the ground that they have no proper qualifications. He then puts up the names to the selection board. If there are three appointments, they decide probably



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to call up six for a personal interview. They then interview them and select two names for each appointment, and their names sent up to the Governor for final decision.

98. And as far as possible those selections are made independently of communal merits on the merits of the case at any rate, that is the theory?—That is the theory; but even there the communal question does undoubtedly come in, because the desire is to give a greater chance to the minorities to get men into the Departments. That is the official desire of the Government.

99. So that a Public Service Commission would

operate in the direction of real efficiency?—Oh, yes, a thoroughly independent one.

100. *Major Attlee*: In view of the present waste of the Ministers' time, the cost of answering questions; and so on, you might, as a matter of fact, save by the appointment of a selection board?—I could not say, but I should think that it might be quite possible.

*The Chairman*: I am sure we are all very grateful to Mr. Turner for his courtesy and patience, and the clearness with which he has expressed his views to us. I have the authority of all my colleagues to thank you, Mr. Turner, very much.

### Mr. A. M. MACMILLAN, C.I.E., I.C.S., Collector of Ahmednagar.

101. *The Chairman*: Mr. Macmillan, are you a member of the Indian Civil Service?—Yes.

102. And I believe you entered the service in 1903?—Yes.

103. Is your experience in the districts or in the Secretariat?—Entirely in the districts.

104. And I think the Bombay Presidency is divided, is it not, into four divisions, if one includes the Northern one?—Yes, four.

105. The Northern one, the Central one, where we are now, and two others?—Yes.

106. Have you had experience in more than one of those districts?—In Sind and the Northern and Central divisions.

107. That is to say, in all except the south?—And the Karnatak part of the Southern.

108. Some experience in the south?—Yes.

109. I suppose as Assistant Collector and then as Collector?—Yes.

110. We are going to confine ourselves to getting your help in the course of the afternoon, and thus make way for others, on one single thing, if my colleagues agree with me. It will be very interesting to us to get from you some account of your experience of the way in which elections work in this Presidency. Have you had responsible charge in respect of the conduct of elections?—Yes, with regard to the elections in 1923 and 1926.

111. Are those elections for the Legislative Council?—Yes.

112. The Bombay Legislative Council?—Yes.

113. That would be the general election of November, I suppose it was, of 1923?—Yes, and of 1926.

114. What was the part of the Presidency where the elections were conducted for which you were responsible?—In the Surat district in 1923, and in Ahmednagar in 1926—in Gujarat.

115. No doubt in the course of your service you also got some general impressions and some general knowledge on the subject of the working of elections elsewhere?—Well, those were the only two cases in which I had any experience of what actually occurred at a council election. Apart from that, I have had only experience of elections to local boards and municipalities.

116. Now let me ask you two or three quite concrete things, and I will leave others to take up the tale. First of all, it would be rather interesting to have your own impressions about the freedom with which candidates come forward. We are all aware of the way in which, unfortunately, opinion tends to divide itself on racial and communal lines. I suppose there will be non-Brahmin candidates and Brahmin candidates, and there will be candidates from other communities. Now first of all, in your experience, what do you say as to the range of choice—I mean, how many people stand, what sort of people stand, in your experience?—I think the leading members of the communities were usually prepared to stand.

117. Then is your experience this, that as far as candidates are concerned, candidates come fairly freely forward?—Yes, I think so.

118. Do you remember how many candidates were there, for example, in the elections that you conducted in Surat—was it in one constituency or more than one?—One constituency—one district constituency; non-Muhammadan. There were three candidates.

119. As to polling booths, the area of your district, Surat, is about how large? Can you compare it with an English county for me?—Well, I could not compare it directly. I think it is about 2,000 to 2,500 square miles.

120. We have been told, for instance, that there is one district which is as big as Yorkshire? My present district is about, I think, 6,000 square miles.

121. Then if the district is as large as that, you must, I should have thought, have to have a great many places where people can vote, otherwise they must come a considerable distance?—Yes.

122. What do you say about the facilities of the voter to get to vote?—I do not think the distances are so great as to prevent people from going to vote, or as to make it very difficult for them. They are accustomed to going long distances to market towns weekly, and so on, and I do not think they feel the distance.

123. What sort of distance do they have to go?—Probably up to about 5 or 7 miles.

124. Large parts of the area will be pure country, will they not?—Yes.

125. I had an impression that sometimes the villagers had to go farther than that; but in the district you are speaking of that is about the distance?—I could not say exactly; that is my general impression, that about 5 or 7 miles is usually the greatest distance.

*A Member*: There is more than one polling station, I understand, in each district.

*The Chairman*: Of course; because otherwise people would have to go much more than six miles; but you cannot have polling stations in every square mile; there must be cases where the voter has to go some distance. I wanted to know how far. From our point of view, of course, we live in a very small and crowded island, and we are able to get the polling stations usually, not always, closer. On the other hand, in Australia, as Lord Burnham has just reminded me, there are cases where the voters have, I believe, to go as far as 100 miles. So do not think I am criticising; I am only wanting to know.

*Sir Hari Singh Gour*: In my constituency voters had to go 125 miles, in the Central Provinces.

126. *The Chairman*: It may be that when one comes to elections to the Legislative Assembly the distances tend sometimes to be rather greater. However, we are here speaking of the Council. Now, what is the actual part you take—I mean, do you act as returning officer?—Yes, as returning officer.

127. And therefore you have the business of presiding over the counting of the votes?—Yes.

128. Do you think the counting of the votes is satisfactorily done?—I think so, yes. It is a very slow process, as it was run.

129. \* \* \* What about the list of voters? How does it come to be prepared? I suppose the

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village officers prepare it?—It is prepared originally by the village officers.

130. Is it printed?—Yes, printed and published.

131. I suppose the presiding officers in the polling stations have a copy and tick people off?—Yes.

132. What percentage, in your experience, in your areas, are literate in the sense that they can do the physical act of voting without assistance, and what percentage of them, in your experience, have to be helped as illiterate?—I believe the actual percentage is about 45 of literate voters.

133. Out of 100 voters, 45 would be literate?—Yes, I think that was the percentage in the last roll.

134. That is for the whole of the Presidency taken together?—No, I mean for the district.

135. Is that Ahmednagar?—Yes.

136. Now let us suppose an illiterate voter comes in who cannot vote without assistance, just tell us what it is that happens?—Well, the polling officer, when he comes in, gives the voter a voting paper, and I think the presiding officer explains to him how to fill it in. The names of the candidates are printed with some symbol which has been published for some time before.

137. With the symbol?—Yes, the symbol which has been used through all the period of the election.

138. So that even if he cannot read the name of the man of his choice, he may know the symbol?—Yes.

139. The picture?—Yes, and then the polling agents, the candidates' agents, are outside, and they explain to the voter.

140. Still, I suppose the candidate's agent does not fill up the paper?—No, he is not allowed inside the polling station.

141. \* \* \* I have been told, or I have read in these books, that at one time the method was used that you just described, I think they call it cross and symbol, and that on other occasions an attempt has been made to use a rather different method, a method of coloured boxes. If you want to vote for A you must put your ballot paper in a box of a particular colour. Which is the method which, in your experience, is used?—The cross and symbol method.

142. You have not seen the other used at all?—No.

143. It has been used, has it not?—I think it was used in the first elections.

144. It has the obvious disadvantage that anyone who happens to be there can see which way you are voting; that is so, is it not?—Yes.

\* \* \* \* \*

*A Member*: There is a screen.

*The Chairman*: I had not appreciated that.

145. *Mr. Harishorn*: Is there a financial limit, a limit to the amount of money that may be spent by candidates in an election?—I do not remember the rules sufficiently to say.

*The Chairman*: I am sure there are some gentlemen who will tell us at once. Is there a financial limit?

*A Member*: There is no limit; you can spend as much as you like.

*The Chairman*: As long as you spend it legitimately, I presume.

*The Member*: Yes.

146. *Lord Strathcona*: Are they required to deposit money?—I think they are.

*The Chairman*: What is the limit?

*Khan Bahadur S. N. Bhutto*: Rs. 250 for Councils and Rs. 500 for the Assembly.

*Lord Strathcona*: Do they forfeit their deposit if they do not get a certain proportion of votes?

*Khan Bahadur S. N. Bhutto*: Yes, if they do not get one-eighth of the total votes recorded.

147. *Colonel Lane-Fox*: What are the limits of what a candidate is forbidden to do? On what is he allowed to spend money? For instance, is he allowed to spend money on conveyances?—No.

148. Can his friends hire motors for him?—I do not know.

149. Is the law strictly carried out?—In the last election in Ahmednagar, there was an election

petition and the principal ground was that hired conveyances were freely used.

150. *The Chairman*: I think I heard you saying that there was an election petition in Ahmednagar after the elections and the illegal methods alleged were that the voters were brought to the polls in hired conveyances. Is that against the law?—Yes.

151. *Colonel Lane-Fox*: Is that done frequently?—I think it is done a good deal.

152. I think another ground was personation?—Yes.

153. What was the result of the election petition?—The election was set aside.

154. At page 425\* a description of the system of elections is given. \* \* \* That is a general statement. Would your experience of the elections confirm this statement?—In the election that I was referring to, it was shown that 40-50 motor-cars and 40-50 tongas were actually hired directly or indirectly for the purpose of the election and that the payments were concealed in the accounts.

155. I wanted to know whether generally the law is not carried out, if there were irregularities?—I think as a rule vehicles are obtained in a roundabout way. As a rule there is no direct payment by the candidates themselves.

156. And treating is of fairly common occurrence?—I have not seen anything of it myself, but it is said to be fairly common. I have not anything to do with inquiries made directly with it.

157. What procedure is adopted when an election petition is filed? Before what authority or court is it brought?—It is heard by a Commission. In the case of the Ahmednagar election petition there was one District Judge, one retired District Judge and a retired member of the Council, Sir Mahadev Chaubal, who were appointed as a Committee of three to inquire into the allegations in the petition.

158. The petition is very rarely successful?—Very rarely. I do not know of any other that has been successful.

159. I think you said that personation is avoided by the agents of the candidates being outside the polling station?—Yes.

160. And therefore a man cannot present himself inside and give a false name but with people coming from long distances it must be much easier to do that?—As a rule there are agents present, and also some of the local officials. If there is any doubt as to the identity of the person coming to vote, the presiding officer gets hold of any one of them, possibly one from the same village, to identify the voter.

161. But the agent of the candidate will not be inside the polling booth?—No, just outside.

162. A man may present himself to the presiding officer and say "I am so-and-so"?—Before a voting paper is given the signature of the voter is taken on the counterfoil of the voting paper.

163. He goes through to the presiding officer as identified?—Yes, he is identified outside.

164. *Major Attlee*: Was the last election in Ahmednagar keenly contested?—Yes, fairly keenly contested.

165. On page 424\* it is stated that voters do not ordinarily go to the poll of their own accord. That is uncommon at home. Would that apply to Ahmednagar?—In the towns, I think, a fairly big proportion of voters are sufficiently keenly interested in the result of the election to go to the polls of their own accord, but in outlying parts, i.e. in rural areas of a district, they are not very keen as to the success of any candidate. I might add that in some of the rural areas they were probably interested in the success of the non-Brahmin and Marhatta candidates as against the Brahmin and Marwari candidates.

166. Are there any permanent organisations in Ahmednagar which act in between election times?—I do not think so.

167. There is no regular organisation?—No, I do not think there is any permanent organisation at all.

168. Take a by-election either for the Central

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Legislature or for the local Council. It is a sort of *ad hoc* organisation run by the candidate?—Yes.

169. You have not a permanent political agent, and so on?—No, not for a candidate. There is a party organisation, the Congress organisation, but there is not any organisation to push a particular candidate or to prepare the way for a future election.

170. Were meetings held in villages during the election?—Not very many in Ahmednagar.

171. Did the candidates visit each village? They could not get round all of them probably?—I do not think so; they visited only the important centres in the district.

172. Did the villagers come to those centres to hear the candidates?—I do not know. I went to Ahmednagar just at the time the elections were being finished. From my experience of the elections at Surat, I might say that there the candidates did hold meetings widely all over the district, and did a good deal of active electioneering, but there was much more interest shown in Surat than in Ahmednagar.

173. Was there much distribution of literature?—In Surat there was a great deal, and a certain amount in Ahmednagar.

174. *Mr. Cadogan*: I should like to know whether in your experience of elections in the two districts, you found that there was any considerable or significant proportion of illiterate voters who took real interest in the elections or in fact even went to register their votes?—I do not think there is generally a large proportion; I do not know if there are any statistics of the proportion of illiterate voters who voted.

175. Probably it will be small?—Among the cultivating classes, I do not know that literacy or illiteracy will make very much difference in the proportion.

176. It would not?—I do not think it would.

177. *The Chairman*: You told us that in the district you were speaking of, figures show that of the voters who voted 45 per cent. were literate. That means that 55 per cent. were illiterate and therefore more illiterate people voted than literate.—The proportion of the illiterate voters who actually voted might be very much the same as that of the literate.

178. *Mr. Cadogan*: That is the answer to the second part of my question. The first part is, I think, important. I want to know whether they take interest in the questions which affect their district and in party politics—the illiterate voters, I mean?—I do not think literacy or illiteracy in the rural areas very much affects the interest of the voters.

179. *Mr. Miller*: You say the lists of voters are prepared by village officers. Who are those village officers?—The village accountants and headmen.

180. Is there any system by which their lists are checked?—I think they are checked in the Mamlatdar's office at the head-quarters of the taluka. The main qualification is the amount of land revenue that is paid by a holder of land or the amount of land held by a tenant. This information is easily obtainable because it is already contained in the village land records, so that as far as that part of the vote goes, it is a matter of extracting information from existing land records. And if any doubt arises as to the qualification of any voter it can always be cleared up by a reference to these records.

181. *Khan Bahadur S. N. Bhutto*: Is it not a fact that these village officials are very heavily worked and that they have not got enough time to prepare the lists and it has been found out that even the names of people who have been dead for six or seven years continue to exist on the lists?—No arrangement was made for keeping the lists up to date. In the last election there were innumerable cases of dead people still remaining on the list. In the case of election petitions there were some cases of personation where people came forward in the names of people who have been dead for two or three years. They voted in the names of people who had been dead for years. The reason was that they prepared the

roll and then did not have any arrangement for getting it corrected from time to time as people died or gave up lands and so on, and so it was incorrect.

182. They simply copied out from the old lists?—They did do that. Now I think arrangements have been made for getting it up to date.

183. Is it not a fact that in each district you have got 40 to 60 polling stations and each taluk 4 to 8 such stations?—Yes.

184. And you have not got enough responsible officials in the district to preside over the pollings and sometimes they are presided over by petty people like talatis?—No. All the officers were as far as possible gazetted officers, officers like the district officers, deputy collectors and sub-judges and so on.

185. Have you got in each district gazetted officials numbering from 40 to 60 who could preside over the pollings?—Of course they do preside.

186. They may go round but the actual work is done by the small petty officials?—No. Those officers are in charge and attend throughout the polling. The polling officers are only assistants for doing the work of identifying and all the clerical work. The person actually presiding is the senior officer who is generally a gazetted officer or a senior subordinate officer.

187. Is it not a fact that most of the illiterate voters are at the mercy of the petty officer who presides over the polling station because he has to accompany them outside the room? You may also have noted that in your district most of these illiterate voters are simply stupid. They know absolutely nothing though the matter is repeatedly explained and they simply mark at the place they are shown?—The candidates' agents are supposed to instruct them.

*The Chairman*: Your putting of the question is also in effect giving me information. Do I catch you to say that in your view the illiterate voter in putting his mark on the paper is at the mercy of the officer?

*Khan Bahadur S. N. Bhutto*: Yes, of the officer who presides over the polling station or the one who records the vote.

*The Chairman*: You mean that the officer is the person who marks his name for him?

*Khan Bahadur S. N. Bhutto*: When the voter is not able to make any distinction that officer has to accompany him to a room and record the vote for him.

*The Chairman*: There is no other way that occurs to me by which a person who is illiterate could vote.

*Khan Bahadur S. N. Bhutto*: That is the point. It is very dangerous to give franchise to illiterate voters.

*The Chairman*: That is the trend of your question? You are disposed to think that a citizen who is illiterate ought not to be regarded as qualified to vote? That is your point?

*Khan Bahadur S. N. Bhutto*: Not exactly that. What I want to bring to your notice is that most of the illiterate voters are not able yet to appreciate the vote or to use their vote properly.

*The Witness*: I think they do not need the assistance of the presiding officer. They have it explained beforehand by the agent and people now know it fairly well. I do not think most of the illiterate people need any assistance in making their marks. It is a perfectly simple system.

\* \* \* \* \*

191. What about the engaging of conveyance by the candidates for the voters? Has that ever come to your notice?—I had never any occasion to look into it except in this particular election in Ahmednagar. I had never any occasion to ascertain about it.

192. *Dr. B. R. Ambedkar*: Have you any idea as to the amount of expenditure that a candidate incurs in the matter of his election? Can you make a guess?—No; I could not say off-hand.

193. I suppose you get the list of expenses which

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the candidate is bound to return?—Yes. It passes through me.

194. Have you any recollection?—No. I do not remember.

Would you say that it is a heavy expense? I do not wish to bind you down to any figure.

*The Chairman*: What I feel about it is this. If you, gentlemen, think it is useful to bring out certain facts which are of course within the knowledge of many of you, it will be very convenient if you would suggest a figure or indicate your own view which we shall be glad to know.

195. *Dr. B. R. Ambedkar*: Would you accept the figure, say, Rs. 10,000, as the ordinary election expenditure in a district?—It varies very much in the Nagar district. Some of the candidates who do not take the election very seriously put in a list of about a few hundred rupees.

196. What will it be by a successful candidate?—I do not remember. It may be somewhere between Rs. 1,000 and Rs. 3,000 or Rs. 4,000 as far as I remember, but I cannot give definite figures.

197. These are the returns?—Yes.

*The Chairman*: I shall be very glad to have your view. You suggest Rs. 10,000. Is it reasonable?

*Dr. B. R. Ambedkar*: I think it is somewhere round that figure in most cases.

198. Do you think that a district is a convenient area as a constituency?—It is rather a large area for effective electioneering.

199. It is too large to establish any definite connection between the candidate and the electors?—It is.

200. Having regard to the paucity of transport facilities, the lack of roads, etc., the area is so large that there is no effective connection between the electors and the candidate?—I think it is large.

201. *Rao Sahab D. R. Patil*: Is it not a fact that the voters from the agricultural classes have taken keen interest in exercising the right of franchise?—I would not say that as a class they have taken keen interest, but certain groups of them have; they have taken a keen personal interest in the election of their communal representative.

202. Do you not think that in the interests of the proper exercise of the right of franchise there ought to be more polling stations for the convenience of the voters?—Yes, in most cases it would be more convenient; but against that has to be weighed the possibility of getting thoroughly reliable presiding officers.

203. That is the function of the Government; they have to provide the proper men?—If they are not available how can you provide them?

204. Is there any scarcity of proper men?—Yes, such men as we consider suitable for acting as presiding officers like magistrates, sub-judges, deputy collectors and senior members of the Education Department.

205. Supposing the Government take it into their head to provide sufficient number of persons, then it will be in the interests of the voters to have more polling stations?—It would be if people could be provided for all.

206. Whatever evidence you have given is evidence based upon hearsay, because as a returning officer you have not to go to the polling stations?—Yes.

207. Whatever evidence you have given is from the information received from your subordinates?—Yes, most of it is from general observation.

208. *Syed Miran Muhammad Shah*: What is your experience? How do the voters of your district go to the polling station—being prompted by political sentiment or on account of entertainment given to them by the candidate?—I think mainly on communal grounds or because of personal knowledge of one of the candidates or because of personal influence having been brought to bear by other people who are interested.

209. Does the question of providing conveyance interfere with the discretion of the voter to exercise his vote?—I have had no opportunity of observing

what takes place, but arrangements are made for conveyance.

\* \* \* \* \*

210. *Syed Miran Muhammad Shah*: What is your opinion as regards the standard of franchise obtaining at present? Do you wish that it should be raised, or that it should be lowered?—I think if it were lowered considerably, it might lead to a smaller percentage of the electorate polling; and, if that were so, it would be much easier to manage an election.

211. So, you wish that it should be lowered? What is the maximum you would prescribe?—At present the percentage is about 40. If you double the electorate, it may lead to a larger number of those who really might, not troubling themselves to exercise their vote. It may lead to only about 25 per cent. of the total electorate ordinarily voting. In that case, if only 25 per cent. vote, it would be much easier to influence the result of an election by good management.

212. Would you then agree to adult suffrage—say that a candidate can vote after 21 years?—I do not think that it is desirable at present.

213. *Sir Hari Singh Gour*: As regards the question of the interest taken by voters in elections, is it not a fact that in every village these voters discuss politics?—I do not think that would be true of that part of the Deccan that I know.

214. If it is not the rule, it is not exceptional, is it?—I do not think there is very much discussion. I have no way of knowing, but I don't think so.

215. You have no way of knowing that?—No; I do not think that villagers meet for the discussion of politics.

216. As regards the polling day, there is one time and place fixed for voters. Take, for instance, your own case. You may have been a voter in Surat, and it is transferred to Ahmednagar, and you may like to vote in Surat. But if on that particular day you happen to be in a different place, you lose your vote?—Yes.

217. In the case of certain men who have to go on urgent call and so on, would you not suggest a certain amount of relaxation and allow a voter to record his vote either before a Stipendiary or an Honorary Magistrate, or in some other way?—I do not see any objection.

218. Then as regards hiring of vehicles, supposing there was an embargo against hired vehicles of a particular description. You probably know that under the rules hiring of a vehicle is not a corrupt practice unless it materially affects the result of an election. But supposing you make a rule that if a candidate is found hiring a single vehicle then he would be unseated, what percentage of voters would fail to go to the poll in that case? You have got 40 per cent. now when you have got the hired vehicles for conveying voters from their place of residence to the polling booths, sometimes 5 or 6 or 7 miles away. What would be the percentage of reduction in the voting strength? It would reduce the percentage to some extent. Is it not so?—Yes, it would.

219. Do you think it would be convenient to a voter to walk all the distance to the polling booth, leaving his bullocks and ploughs in the field, to discharge his public duty of voting for the candidate whom he liked so well?—It is a question of how much he is interested in it. I cannot say that, but if he is going to do exactly the same thing as his going to the market once a week, he might as well go to the polling booth.

220. But to the market he is going to buy his tobacco?—It is a question of the relative importance of buying tobacco and voting for a candidate.

221. Of the successful candidates that have been returned to the Bombay Council, how far have they kept themselves in close touch with the constituencies that returned them during the last three years?—I do not think that he keeps very directly in touch



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with his constituency, but he probably ascertains what the public feeling is from a few people of influence among his constituents.

222. In other words, he keeps in close touch with the few key voters who influence the general election?—He keeps himself acquainted with the state of public feeling through a few people.

223. In that sense he does keep in touch with his constituency?—Up to a certain point.

224. Now, since the introduction of the party system in the general elections for this country—you have the Swaraj party, and then the Congress party, and you have the Moderate party and so on—do you think that the party system has very much, or to any extent, influenced the course of election in your presidency?—Yes. I think the work of the party organisation did influence that.

225. Has it penetrated the rural areas?—Yes, in some parts; for example, Gujarat.

226. *Nawab Sir Zulfiqar Ali Khan*: Mr. MacMillan, I understand you have the experience of several elections. You were the Returning Officer for two elections?—Yes.

227. I understand from Dr. Gour's questions that you think that the percentage of votes cast is about 40. Is that so?—Yes.

228. Is there any higher percentage existing anywhere else?—I think it does go up to something higher than that, say, up to about 50 in some places. I do not know the figures, but I know that it does go rather higher than 40 per cent. in some constituencies.

229. In some places you think it may be lower than 40?—Yes, in some cases it may be lower.

230. What reasons would you assign to this low percentage?—I think a great many of the voters have no interest, and they know nothing about political questions. They have no real interest. They do not know exactly what the members do when elected. They do not understand the system at all. There are lots of people in rural areas who do not know what the votes are for.

231. Then you think that people do not take adequate interest in the system of election?—The people as a whole do not take very great interest, I think, in it.

232. *Sir Hari Singh Gour*: Then you think they do not appreciate the value of a vote. The individual who has got the right to vote does not rightly value the vote?—I don't think he thinks about it very much at all. He knows only that someone wants his vote.

233. *The Chairman*: Why should he leave his fields and go sometimes great distances to vote? What inducements are there which make these people leave their ordinary work and go to great distant places?—They understand that it is a question of selecting some individual to fill some important position.

234. Might the possible inducement sometimes be a money payment?—I believe that is sometimes the inducement here. But as regards people to whom no such inducement is offered I think they have a general idea that election is for the purposes of selecting persons for some sort of important positions and they have an interest in choosing the best of the candidates or one in whom they have interests communally.

235. I should count that myself as indicating a political interest—not perhaps a definite interest. Your view is that they have no great interest?—I do not think that there is any great interest taken by them.

236. *Sir Santhar Nair*: What are the chief considerations guiding a voter in determining his choice of a candidate?—Partly personal and partly communal, partly that the selection of a particular person will advance the public interest as well as his (the voter's) interest in public affairs. In the last election there were four candidates—a Brahmin, a Marwari pleader connected with the Marwari money-lending community, a Mahratta Jagirdar and a Mahratta pleader. Some of them were interested in the Brahmin

candidate as one having taken great interest in public affairs in the Local Board and the Municipality and the co-operative movement and so on. The Marwari candidate was connected with the Swaraj Party organisation. The two Mahratta candidates obtained a number of votes simply as Mahrattas; but each of them had quite a large following. The matter is one of personal interest.

237. Do you think that indebtedness of the people is a hindrance in the right of voting?—In the last election the Marwari came easily at the head of the poll, and I think that must have been partly due to the financial influence of the Marwari community.

238. *Sardar Shivdev Singh*: What do you think the lack of interest in the majority of voters is due to?—Well, the lack of understanding and the knowledge of public affairs. There is no way of obtaining any knowledge of public affairs or getting any information about public affairs unless a candidate stands for election.

239. It comes to this, that the lack of education is the cause of lack of interest in the vote. If the voters were educated, the papers would go to their hands and they would come to know what is happening. They would then be able to judge for which candidate they are to vote?—No, in the outlying parts they have no other way of becoming acquainted with any questions of public policy at all or any political questions.

240. Except through reading papers?—Yes.

241. *Dr. Suhrawardy*: Mr. MacMillan, is it not a fact that the rules against the use of hired vehicles serve as a severe handicap for the poor candidates?—I cannot give an opinion on that.

*The Chairman* (to Dr. Suhrawardy): You mean that those who have got no friends who can lend their private conveyances must necessarily have recourse to hire.

*Dr. Suhrawardy*: Yes, that is my view.

242. *Sir Hari Singh Gour*: (to the Witness): You referred to the gentleman who got at the top of all other candidates. Was he not a member of the Swaraj Party?—Yes.

243. How far was his success due to the financial backing, how far to the fact that he was a member of the Swaraj Party?—I cannot answer that.

244. *Lord Burnham*: May I ask you one general question for my information? In your opinion is it the case that communal differences either between Mussalmans and Hindus or between advanced and backward classes make voters take more interest in the election of the candidates whom they would favour on communal grounds?—I think that is so.

245. Therefore in that sense communal differences are an incentive to political consciousness. Is that so?—I do not know how far it would involve any real interest in political questions or only in communal rivalry.

\* \* \* \* \*

246. *Rao Saheb D. R. Patil*: Mr. Macmillan, may I ask one other question? Is it a fact that in urban areas there is a large number of voters and in the rural areas, if you take a group of villages the votes contained in that group are equivalent to the votes in one single city or town?—Yes.

247. So, do you not think that there ought to be two separate constituencies, namely, urban and rural, as we have got in the Central Provinces?—Yes. Is that for groups of small towns?

248. Take into consideration all the municipalities in a particular district. Suppose in a particular district there are three seats. If we take all the municipalities and group them together and make them into one seat and allot two seats for the rural areas taking into consideration the number of voters, how would it be? That practice is in vogue in the Central Provinces. Do you not think that practice is desirable also in the Bombay Presidency?—I doubt if it is not better to keep the small towns and the rural areas of which they are centres as one. It is different for cities like Ahmedabad or Bombay.

249. Supposing in a particular district there are

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big towns and the number of voters there is equivalent to the number of voters in one whole taluka. Then in such a district do you not think that there ought to be two separate constituencies, urban and rural?—It might be possible. You may get more representative members if you separate out the interests of the rural and urban areas.

LIST OF INDIAN MEMBERS OF THE I.C.S., WITH  
THEIR RELIGION AND CASTE, ETC.\*

| Serial No. | Name.                             | Religion.      | Race, Tribe, Caste or Nationality. |
|------------|-----------------------------------|----------------|------------------------------------|
| 1          | Hon. Mr. Justice G. D. Madgaonkar | Hindu          | Brahmin (Gaud Saraswat).           |
| 2          | Dr. F. X. De Souza                | Roman Catholic | Indian Christian (Race).           |
| 3          | Mr. J. Ghosal                     | Brahmo         | —                                  |
| 4          | Mr. Balak Ram                     | ?              | —                                  |
| 5          | Mr. Hamid M. A. Ali               | Muhamma-       | Shiah (Tribe).                     |
| 6          | Mr. A. R. Dalal                   | Zoroastrian    | Parsi (Race)                       |
| 7          | Mr. D. D. Nanavati                | Hindu          | Vania (Desawal).                   |
| 8          | Mr. N. J. Wadia                   | Zoroastrian    | Parsi (Race).                      |
| 9          | Mr. J. A. Madan                   | Hindu          | Daivadnya.                         |
| 10         | Mr. H. K. Kirpalani               | "              | Kshatriya (Aml).                   |
| 11         | Mr. K. C. Sen                     | "              | Vaidya.                            |
| 12         | Mr. V. S. Bhide                   | "              | Brahmin. (Chitpavan).              |
| 13         | Mr. G. S. Rajadhyakshya           | "              | Brahmin (Gaud Saraswat).           |
| 14         | Mr. M. D. Bhat                    | "              | Brahmin (Chitpavan).               |
| 15         | Mr. C. B. Nagarkar                | Brahmo         | —                                  |
| 16         | Mr. P. N. Moss                    | Zoroastrian    | Parsi (Race).                      |
| 17         | Mr. G. H. Guggali                 | Hindu          | Lingayat.                          |
| 18         | Mr. U. M. Mirchandani             | "              | Kshatriya (Lohana Aml).            |
| 19         | Mr. Saiyid Aminuddin              | Mussalman      | Syed (Tribe).                      |
| 20         | Mr. R. S. Bavdekar                | Hindu          | Brahmin (Gaud Saraswat).           |
| 21         | Mr. M. D. Bhansali                | "              | Kshatriya (Bhansali).              |
| 22         | Mr. D. V. Vyas                    | "              | Brahmin (Audich).                  |
| 23         | Mr. K. L. Punjabi                 | "              | Kshatriya (Punjabi).               |
| 24         | Mr. G. K. Joshi                   | "              | Brahmin (Chitpavan).               |
| 25         | Mr. A. D. Gorwala                 | Zoroastrian    | Parsi (Race).                      |
| 26         | Mr. D. W. Kerkar                  | Hindu          | Brahmin (Gaud Saraswat).           |
| 27         | Mr. J. N. Mehta                   | "              | Bania (Visha Modh).                |
| 28         | Mr. H. V. V. Iengar               | Hindu          | Brahmin (Shree Vaishnava).         |
| 29         | Mr. H. K. Chainani                | "              | Aml.                               |
| 30         | Mr. L. T. Gholap                  | "              | Brahmin (Desastha).                |
| 31         | Mr. H. M. Patel                   | "              | Patidar (Lewa).                    |

## POONA.

Dated, 18th October, 1928.

Morning.

## PRESENT :

ALL THE MEMBERS OF THE COMMISSION, AND OF THE CENTRAL AND THE BOMBAY PROVINCIAL COMMITTEES.

MR. GILBERT WILES, C.I.E., I.C.S., Secretary to the Government of Bombay,  
Finance Department.†

1. *The Chairman*: Mr. Gilbert Wiles, are you Secretary to the Government of Bombay in the Finance Department?—Yes.

2. We need not go through your record; I have no doubt that it is a long and useful one; but for how long have you been Finance Secretary to the Government of Bombay?—Five years.

3. So that the Montagu Report and the action that was taken on it would be before you became Finance Secretary?—Yes.

\* \* \* \* \*  
6. \* \* \* I understand the Montagu-Chelmsford Report, on this subject, to take this view: it says, in effect, that the old system by which the Government of India made arrangements with the provinces and agreed that the provinces should be allotted from central funds certain amounts was a system which must be altered in view of the new constitution which the Montagu-Chelmsford Report suggested. That is right, is it not?—Yes.

7. My British colleagues, of course, will have noted what is familiar to others but curious to us, namely, that the old, pre-Reform system was called a system of permanent settlement, though "permanent settlement" was used in that connection in quite a different sense from the sense of permanent settlement in Bengal in land revenue. It meant there had been an arrangement by which each Province got from the Government of India what was thought to be or agreed to be a proper amount, measured, I imagine, by some estimate of each province's needs?—Yes.

*Sir Hari Singh Gour*: It was called a system of doles.

8. *The Chairman*: It may have been called that, but it was measured according to the needs of the provinces. The first point the Montagu-Chelmsford Report made was this: If you are going to set up the reformed constitution and give the Provincial Government the responsibility which you propose,

\* Vide question No. 53, p. 18.

† See his further evidence on page 49.

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you must not go on giving them doles, but you must have a new system. That was the first point?—That is so.

9. I understand the second point was this. They suggested this would be best done by what they called a complete separation of sources of revenue if that was found possible, and they therefore proposed to abolish what used to be known as divided heads: is not that right?—Yes.

10. If I understand it rightly, in the old days before the Reforms as regards land revenue, to take that as an example, land revenue under the permanent settlement was equally shared in most provinces, was not it, half going to the Central Government and half to the province?—I think so, yes.

11. I do not think that is absolutely correct everywhere; I think in the old days Burma got rather more than half and the United Provinces rather less, but that does not matter; that was the kind of principle. Then I think the next thing the Report suggested was the kind of distribution of heads of revenue which would be proper. For example, land revenue was marked down as a provincial head and income-tax, at any rate in principle, was marked down as a central head, and so on. We need not go into all the details, because they were slightly changed. Then I think they pointed out there might have to be some adjustments and they discussed how those adjustments should be made. Do I understand rightly that the reason why adjustments would be needed would be this, that if the Montagu-Chelmsford scheme for the distribution of heads of revenue was strictly applied it would have left the Central Government with a deficit?—Yes.

12. And therefore it would be necessary, while making the separation of heads of revenue, to get from the provinces some contribution to meet that deficit?—That is so.

13. And to some extent that is worked out in the Montagu-Chelmsford Report. There are two passages in that Report which are very important for us. First of all, I notice that after making their suggestions as to how the deficit was to be met by contributions, they say in para. 206 (top of page 170\*): "We recognise, of course, that the objection will be taken that some provinces, even under this plan, would bear a very much heavier proportion of the cost of the Indian Government than others," and then they go on—but I will take the details later. I notice also that at the bottom of the same page, in para. 207, the authors of the Montagu-Chelmsford Report in express terms indicate that it would be one of the duties of the Statutory Commission, when it came into existence, to examine the development of constitutional changes in the light of ten years' experience and to reinvestigate the question of the provincial contributions to the Government of India. That is half-way through para. 207. So I think my colleagues will all agree that it looks as though whether we like it or not we have to enter on this, because it is one of the things we are specially told to do. That was in April, 1918. I pass over intermediate events, and the fact I want you to bring out for me in this. It seems to me that the much-criticised Meston Report is not the next thing that happened that was important; the next thing that happened was the consideration of the financial scheme by the Joint Committee of both Houses of Parliament. Is not that so? I will give you the dates. I see the Joint Committee of both Houses of Parliament reported at some time in 1919, and they say in para. 9:—"Doubts have been expressed from several quarters questioning the financial adjustment proposed between the Central and Provincial Governments in India. Without expressing any opinion on this controversy, the Committee"—i.e. the Joint Committee of both Houses of Parliament—"accept and endorse the recommendation of the Government of India that a fully qualified financial commission should be

"appointed . . ." etc. It seems to me, therefore, that it was the Joint Committee's Report which came next in order. That is so, I think?—That is so. That is made clear also in para. 3 of the Report of the Meston Committee itself.

14. They say the same thing, do they? I do not think it has always been realised that that is so. Then we come to the Meston Committee. Let us get our dates right. The Meston Committee was appointed on the 20th January, 1920, and acted most expeditiously; I wish we could do the same; they reported on 31st March, 1920. Now, looking at the Meston Report, what I want to call attention to is this. In para. 5 I notice they say:—"We read the Joint Select Committee of Parliament as approving this redistribution" i.e. the distribution of sources of revenue between the centre and the provinces—"and we considered it would be outside our duty to advise any alteration of the scheme in this respect unless we found the strongest reasons for the change." You see the passage I mean?—Yes.

15. Does not it seem to follow from that—correct me if I am wrong—that the popular view that whatever there is to complain of is fundamentally to be traced to the Meston Committee may perhaps not be quite right? The Meston Committee seem to have taken the view that the broad lines of the distribution of sources of revenue were already imposed, and they were therefore only discussing some adjustments. Is not that the fair view?—That is so, I think. People usually understand what is called the Meston Settlement as being the result of all these considerations by various committees.

16. As I follow it, there are two broad matters of complaint, which are distinct and may not have the same importance. One matter of complaint which is put forward by the Bombay Government and others is this, is not it? They say, "You give income-tax to the Central Government and you give land revenue to the Provincial Government. If you do that you are evidently, so far, treating an industrialised province, which has got very large contributions of income-tax to offer, very hardly as compared with an agricultural province whose principal interest is agriculture"?—Exactly.

17. That is one argument. Now, in so far as there is force in that argument, that has nothing to do with the Meston Settlement at all?—I would rather say it has nothing to do with the Meston Report.

18. It has nothing to do with the Meston Report at all; it goes back to the Montagu-Chelmsford scheme, which was adopted in principle by the Joint Committee, does not it?—Yes.

19. I want to be clear. We must trace the thing to its root. Now, the second criticism which is made by the Bombay Government, and which is also important (I am going later to ask you which is the more important), is this. They say matters were not left quite like that, because it was necessary to secure some contributions from the different Provinces under the new scheme to meet the deficit at the centre. I understand there is a complaint made here that as a matter of fact the attempt to adjust the thing as between the different provinces by means of those contributions is not one which is fair as between the different provinces. Is not that so?—\* \* \* If I may put it a little differently, our contention is that the abolition of the contributions from the provinces, which were collected in order to make up the central deficit, has automatically increased the injustice as against Bombay—the initial injustice.

21. To put the thing in figures for a moment, it is this, as I follow it. Let us take two provinces, province X and Bombay. (I deliberately do not mention any other province by name.) I understand the point is this. As long as those contributions to the Central Government were going on, each province contributing its allotted amount, the contribution from province X was bigger than the contribution

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from Bombay. It was necessary that should be so, if you were going to adjust the original injustice to Bombay. A man who is keeping more than he ought to keep must give more back. A province that is already hard hit contributes less. I understand the point is that now these contributions have stopped, because the Government of India can now balance its budget, and the result is that the big contribution from X, which went some way to compensate Bombay, has ceased, and Bombay is left with the original discrepancy quite uncorrected?—That is so.

\* \* \* \* \*

24. It seems to me the second point I have mentioned is partly an historical grievance, but I should have thought in any case it was not nearly so important to Bombay in the future as the question of revising, if revision is right, the attribution of sources of income?—I accept that entirely.

\* \* \* \* \*

26. \* \* \* The reason I mention it is that in your memorandum there are very many pages which deal with the past and the inequity of the calculations made, and what I want to know from you is whether the Conference here, facing the thing like practical men, have not got to concentrate on whether a case is made out for reviewing, and it may be revising, the attribution of sources of revenue?—If the Government of India had a big enough surplus to right the wrong which has been done, we might apply for it; but we realise there is not the least chance of that.

27. I should have thought it was rather a secondary matter; to send in your bill of damages in respect of a past injury. What matters is to get the thing put right for the future?—I quite agree that that is more important.

28. While we are on that, I should like you to deal with this point. Perhaps we can most conveniently identify the point if we take the smaller of the two blue books, the one which contains your proposals. I will call your attention to para. 23\*, which is a convenient place for reference. I see in the middle of the page there is this passage:—"In paragraph 206 of the Joint Report it is stated that 'Madras and the United Provinces will be paying 47 per cent. and 41 per cent. of their 'remaining revenues' to the Government of India, while 'Bombay and Bengal are paying only 10 per cent.' A similar statement is made also in the Meston 'Committee Report.' May I have your help to elucidate that first of all, and then secondly we will see whether that would be any reason for saying that Madras or the United Provinces were being made to pay more. Let us take the 47 per cent. Madras will be paying, it says, 47 per cent. of its remaining revenues to the Government of India. Will you explain to me what that 47 per cent. is? Shall I put it as I think it is, and you can tell me if I am right?—Is it page 206 of the Montagu-Chelmsford Report?"

29. I believe this is it, is not it? Correct me if I do not state it clearly. In pre-Reform days a province, say Madras or Bombay, would get from the Government of India, under the system of permanent settlements, a given revenue which we will call X. Estimates were made to find out what, under the new system with separate heads of revenue, a province, say Madras or Bombay, might expect to get; we will call that Y. In many cases, perhaps, Y was bigger than X, and if you were to subtract the old revenue from the new estimated revenue you got what is called the remaining revenue, did not you?—Yes.

30. Different provinces got such very different figures; Bombay, for example, gave up all income-tax and obtained a comparatively small advantage from the new scheme, while some other provinces

sacrificed an income-tax which did not matter so much but kept a very large land revenue and got a great advantage. It was therefore necessary that each of them should make some contribution to meet the central deficit, and the contribution in the case of Madras was 47 per cent. of Y minus X, the difference between the new and the old?—Yes.

In the U.P. it was 41 per cent., whereas on the other hand, in Bombay it was only 10 per cent.?

31. I think a great many people, reading that, would suppose that Madras was being particularly hard hit, and Bombay was being very gently treated: is that right?—We hold that it is not right.

32. It is a matter of arithmetic. May I give you an illustration? If I was trying to give two people the same sum of money, let us say one rupee, and I gave one of them a 10-rupee note and I gave the other a 5-rupee note, if I wanted each of them to have the same sum I should expect one of them to give me back nine rupees, and the other to give me back four rupees?—Yes.

33. But that would not prove that I was treating the one man twice as badly as the other?—Quite so.

34. Is not that the point?—Exactly.

35. What happened was, was it not, that these provinces under the new arrangement, some of them, as it were, were getting a larger amount gross?—Yes.

36. And therefore they had to hand back more?—Yes.

37. Other provinces were getting a smaller amount gross, and therefore they had to hand back less: is not that right?—Yes.

\* \* \* \* \*

39. So when I read that Madras and the United Provinces will be paying 47 per cent. and 41 per cent., while Bombay and Bengal are paying only 10 per cent., I gather you to say that that does not really mean that Madras was being treated harshly and that Bombay was being treated lightly?—Quite so.

40. Will you not develop this a little more in your own words?—\* \* \* The settlement which we are discussing now took from the Bombay Government the whole of the income-tax, income-tax being that portion of our taxation from which we could derive the largest part of our revenue. They left us with the whole of the land revenue, they left, say, Madras also—I must quote a province—with the whole of the land revenue, Madras having a very small receipt from income-tax. The result was that when Madras got its revenue from land revenue they were very much in excess of the land revenue which, say, Bombay had. Therefore, in fixing the contributions, after the settlement Madras had to pay a very large proportion back of its land revenue in order to meet the deficit.

42. That is what I call giving back the change from the 10-rupee note?—That is so. Now all the contributions having been paid up in accordance with the orders of Parliament, we are now at the original injustice.

43. Uncorrected?—Uncorrected. So that Bombay is left to carry on—I am only quoting land revenue as an example—we are left to carry on with our revenues from the land-revenue. Madras also is left to carry on with a much larger land revenue. But the whole of our income-tax still goes to the Government of India, and the whole of the income-tax of Madras, which is much smaller, goes to the Government of India.

44. What is the percentage, as you calculate it, of income-tax which can be said to be handed over from this Presidency?—Do you mean the percentage of income-tax of Bombay to the whole of India?

45. Yes.—I am not quite certain, but I think it is about 35 per cent. I am speaking entirely from memory. I have not the figure before me.

46. If you will look at the big book, page 578\*, at the bottom, you will see this:—"Further, it was pointed out that during the years 1920-23 this



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[Continued.]

"province had contributed 36 per cent. of the total 'taxes on income collected in the whole of India.' That was the figure I had in mind. I suppose, Mr. Wiles, that that means that the machinery of income-tax collection inside the boundaries of this Presidency produces and accounts for that percentage?—That is so.

47. That is not quite the same thing, is it, as saying that the contribution of the Bombay Presidency, considered from the point of view of Government taxation, is that percentage?—No, it would not be exactly the same thing, of course. You can assume that some of the tax which is paid in Bombay may be earned in an outside province.

48. It does not matter whether you take Bombay or whether you take Bengal, but take any great company which may have shareholders in different parts of India, such as the jute companies of Bengal. I suppose that there are people who have interests as shareholders in those companies that do not live in Bengal?—It has been found from such investigation as can be made that, as far as Bombay is concerned, the great bulk of the income-tax is earned within the borders of the province. I think that has been admitted by the Government of India.

49. I wanted to know what you meant by "earned." Do you regard the test as regards a company as being where the company carries on business, or do you think it material to inquire where are the shareholders to whom the dividends are paid?—They are both material. I was referring, when I said "earned," rather to the allocation of the shareholders.

50. As you know very well, it is a complication which presents itself whenever you think about this income-tax subject.—I do not know whether you would like me to put now, in another form, this particular objection about the income-tax?

51. I wish you would?—I would like to put it like this, that if there is to be any real provincial financial autonomy, we ought to aim at a system of taxation which will permit the local Government to distribute its taxes according to principles which are recognised as being equitable. One of those principles is that there should be some sort of equality of sacrifice spread over the population of the province. By having removed from our sphere of taxation the whole of the industries of the province, we are completely prevented from following that canon of taxation. We can have no equality of sacrifice within the province, because we cannot tax industries at all; we can only tax the cultivator and the poor man.

52. If I follow you, in saying that, you are for the moment—I am not complaining, but just to follow—confining yourself to the boundaries of the province, and you are treating the people that live in the province, the different classes, agriculturists, business men, lawyers, everybody, as though you had to consider equality of sacrifice limiting it to such revenue as the province gets out of that and keeps?—Quite so. I am not suggesting that the principle should not also be applied to the taxation of India as a whole. It should be.

53. What I mean is this—I quite follow the point which you make; it is a very important one, I think—that the legislature of Bombay naturally feels strongly that it ought not to have a revenue to spend which is drawn only from certain classes in the Presidency, says the agriculturists, or the people who vend liquor, or whatever it may be, or, on the other hand, that it has not got any money to spend which is drawn from the industrial and commercial classes, because that goes to the centre. I quite follow the point; but if you are talking about equality of sacrifice, which is a very important principle, you would have to bear in mind, would you not, that the industrial and commercial classes are making a sacrifice notwithstanding that the sacrifice takes the form of contributing to the central revenue?—Quite so, sir. I see your point.

54. And that is a fair thing to remember, is it

not? Still, I see what you mean, that it is a desirable thing, if you can, even though there are central taxes as well as provincial taxes, to have the provincial taxes, the provincial burden, so spread that all classes of the community are taxed on the principle, as far as possible, of equality of sacrifice?—Quite so. If that principle cannot be followed by the Provincial Government, they are tempted, obliged, to get money from where they can. If this sphere of taxation is removed from them, they are left to place improper burdens on the people who are left to them to tax.

55. Does that consideration, in your judgment, lead to the view that a complete separation of sources of revenue could not be insisted upon too strictly?—Undoubtedly, sir, if it conflicts with that principle.

56. I mean, taking Indian conditions as you know them, does it conflict with that principle?—I think it does. I think it is impossible to have a complete separation of resources without conflicting with that principle.

57. And, of course, it strikes one very much when one looks into it that it is strange, too, that revenue from land should be drawn, as I understand it is, entirely from country districts, and, on the other hand, that income-tax should be drawn, in substance, entirely from industrial districts?—That is a very important point. We have not an income-tax on agricultural income.

58. There are some gentlemen sitting round here who would be very much relieved if they were told that there was no income-tax in the agricultural districts of England, and there are others of us who would be greatly surprised if there was no sort of tax on land in towns. We have both in both places, though it may not, perhaps, be done on scientific principles. You have a system by which land tax is all country: income-tax is all town?—Well, we have a land tax in the towns as well, on non-agricultural land.

59. I am speaking in substance?—Yes.

60. As long as you have that principle, do you think that you could gain what you suggest, that is to say, equality of burden within the province for provincial purposes, as long as you separate heads of revenue?—Not without some balancing factors.

61. Will you just shortly tell us what is the proposal which you think ought to be considered for the purpose of introducing an adequate balancing factor?—We have asked that in any future settlement we shall have part of the income-tax, part of the tax which is collected from the industries of the province. The exact method by which that can be arrived at is a matter for further argument and discussion, I think; but we have put forward what seemed to us, from the evidence which we have in Bombay, to be a fair system, a system which would suit us very well.

62. As regards the machinery of collection, you are not proposing, I suppose, that that should be other than centralised?—No.

63. You are not, I think putting forward a proposal that the provincial legislature should call for or request some added rate of tax which the Central Government should collect for them? You are not proposing that?—That is not our proposal, no.

64. As I follow it, the proposal in your memorandum is that it would be for the Government of India and the central authorities to determine what was to be the rate of income-tax, and then that the new arrangement should be one by which the Government of India should pay over some fraction of the proceeds of income-tax so far as it was regarded as coming from this Presidency?—Yes.

65. Is your idea that the arrangement would be one which would in the same way hand over the same fraction of the income-tax produced by other provinces?—Yes; we have not proposed that there should be any differentiation so far as the fraction goes.

66. Of course, Bombay would get more money, because it produces more income?—That is true.

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[Continued.]

67. Your suggestion is, therefore, that there should be the same fraction for all provinces?—Yes.

68. Paid over by the Government of India, which collects?—Yes.

69. I think I should like to ask you to deal with one or two of the difficulties which that sort of scheme suggests. I am not discussing its justice, but difficulties of a more practical sort. Is it your view that you could identify the income-tax properly to be described as drawn from Bombay?—We do not pretend that we could identify it exactly, but our inquiries in this Presidency lead us to believe that the great bulk of the income-tax which we should get legitimately belongs to the province.

70. What I meant by my difficulties was this. I have no views; I am only asking for your guidance. Here in the Presidency of Bombay, of course, you have a large number of very important companies carrying on extremely important enterprises. Now, would not all those companies be paying income-tax in the Presidency of Bombay?—Under the crude system as it is put, they would. There are a few companies, but not many, that pay income-tax in Bombay, who carry on their work outside the Presidency; but the rough justice to which I have alluded would be from the fact that most of the money is provided by Bombay shareholders; the money and enterprise comes from Bombay, although the actual work may be done somewhere else.

71. You have introduced the word "shareholders." I was thinking of companies. Income-tax authorities draw a distinction between the two, and so do I. We will see afterwards what happens to the profits, but the company will be a company which is carrying on business in Bombay?—Yes. Does not the company consist of shareholders, very largely?

72. It does indeed, but the shareholders are not necessarily in the Bombay Presidency?—That is my point, that in these particular companies to which I am referring, which have their head-quarters in Bombay, it has been ascertained, I believe, that the great majority of the shareholders do reside in Bombay.

73. You mean to say that you are looking at it as though it was the shareholder whose income was the ultimate object of tax. It is not technically so, but it is substantially so. But you still treat the shareholder as being where the company is. You may be right.—I am only referring now to Bombay. I believe that conditions are very considerably different in Calcutta.

74. You know, do you not, that the Todhunter Report expressed some difficulty on this point?—That is so.

75. Let me read you the passage. It is in the Todhunter Report, page 402, paragraph 534. This is what these gentlemen say: "It follows from what 'has been stated above that, in a number of cases, 'tax will be charged in a province in which a company carries on its business, but actually be borne 'by a person resident in some other province, and 'the question then arises in which proportion the 'income tax is to be allotted as between the province 'in which the income arises, and in which the tax 'is collected in the first instance, and the province 'in which the recipient of the income who ultimately bears the burden of the tax resides.' They go on to point out that a similar kind of question arises in what we call double taxation. It happened, I may remind you, when the Free State of Ireland was set up, and some of us took part in the discussion. You do not think that in the Bombay Presidency that, in practice, is a very material difficulty?—In point of fact we have admitted, in putting our case, that some practical difficulty will arise. We should get a little more than we were entitled to.

76. But you do not object to that?—We do not object to that, but we have said in answer to that that we are not proposing to take the whole of the income-tax. If you take the whole of the income-tax as being roughly set off by the whole of the land

revenue, we are getting only a proportion of the income-tax.

\* \* \* \* \*

78. You know what the Todhunter proposal was?—Yes.

79. Will you describe it to us?—They proposed that the distribution should relate to personal incomes only, which they held could be allocated to provinces. The origin of the income-tax could be traced down in the case of personal incomes with some accuracy. They therefore proposed the provinces should get a basic rate on the income-tax based on a sliding scale.

80. I am afraid that is not entirely clear to me. Is a basic rate of the income-tax based on a sliding scale anything different from a flat rate?—It is different from a flat rate. The basic rate would vary with the different rates of income-tax.

81. Is it any different from saying you shall have one-fourth or one-fifth?—Yes, it differs from that a little. I referred to the sliding scale because there was another proposal made by the Government of India, that the provinces should be given a flat rate. They proposed to give us 3 pies in the rupee. We, on the other hand, proposed that it should vary with the rate of income-tax that is collected, the idea being that Bombay, which has a very large number of income-tax payers paying a high rate, should not escape. We thought that from our own high income-tax payers we should get a higher rate than is obtained from the smaller payers in other provinces; otherwise we should not get the differential rate to which we thought we were entitled as compared with other provinces.

82. Passing for a moment from income-tax, there is this other point. Please look at page 574 of the big volume ("Memorandum prepared by the Government of Bombay," Part I).<sup>\*</sup> It is a convenient place to find the list of sources of revenue as they are at present distributed. I see it says, about the middle of the page, that the distribution of sources of revenue as between the Central and Provincial Governments is this:—"Income-tax, Salt, Opium, 'Railways, Posts and Telegraphs, were made central 'sources of revenue. Land Revenue, Excise, non-judicial and Judicial Stamps, Forests, Registration and Irrigation, were made provincial sources of 'revenue.' I want to ask one or two questions about that, so as to be sure I am clear about it. Let us take the salt tax first of all. Is not the salt tax in its nature an excise?—Yes, I think so.

83. When you give us sources of provincial revenue, "Land Revenue, Excise \* \* \*" you must be referring to excise other than the salt tax. What is it—liquor?—Country-made liquor only.

84. Not drugs?—Yes. Country-made liquor and country-made drugs.

85. Take forests. You are speaking for Bombay. I know the administration of forests differs, but are forests in every province a provincial source of revenue?—I think so.

86. You have spoken of your suggestions as to how to adjust what you regard as the disparity by reference to income-tax. Is there any other balancing factor to which you wish to call attention?—We have mentioned other balancing factors which we think could be made a source of central revenue. We would agree, for instance, to hand over non-judicial stamps, as was recommended by the Todhunter Committee.

87. What is the story about that? The Montagu-Chelmsford Report did propose, did not it, that judicial stamps should be provincial and non-judicial should be central?—Yes.

88. What was the point at which it was decided that all stamps should be provincial?—I think that was the proposal in the Meston Committee's Report. They thought this left a taint of divided heads, which they were anxious to remove, and they therefore proposed to put all stamps in one category.

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[Continued.]

89. Non-judicial stamps, I suppose, are stamps on transactions and things of that kind?—Yes, all business transaction stamps.

*The Chairman*: It has got nothing to do with the post office; it means stamps carried on deeds and things of that sort.

*Sir Arthur Froom*: Stamps on investments and transfers.

*The Witness*: This matter has already been discussed by the Government of India with all local Governments on administrative grounds, and they agreed to this transfer.

90. *The Chairman*: I am going to hand the matter over to others now, but before we do so let us look through your small book of proposals ("Memorandum prepared by the Government of Bombay," Part II)\* and see if there is anything we should like to mention. \* \* \* I shall pick out a few passages, and you can call attention to anything else you think is very important. Your "Financial Proposals" begin on page 19, section 22.\* The first two paragraphs—22 and 23—do not contain proposals, but introductory matter only. You put it very clearly about the middle of page 20:—"In the industrial provinces Income-tax is proportionately more important than Land Revenue; whereas in agricultural provinces the opposite is the case." If the provinces were to be treated fairly it was necessary to consider this factor of comparative importance of the various sources of revenue in the finances of the various provinces." That is what you have explained to us just now?—Yes.

91. That, I gather, is the central point of the whole thing, is it not?—Yes, certainly.

92. At the top of page 21 you put in a very convenient way what I was trying to illustrate by my suggestion of paying two people the same amount yet having to ask for different amounts of change: "The agricultural provinces secured a windfall addition to their revenues. The industrial provinces hardly gained anything at all." Then you say: "This embarrassing result has been justified by the Montagu-Chelmsford Report and the Meston Committee on the specious reasoning that the surplus which the agricultural provinces obtained was really their own." Of course, if it was really their own, then they would be making equal contributions. Your point is it is not really their own; it is only a process in the course of an ultimate adjustment?—Yes.

\* \* \* \* \*

94. *The Chairman*: Then we come to page 22, Section 23, and then comes the passage in the middle of the page to which I called your attention, about the 47 per cent. from Madras. You have made that perfectly plain to me. At the bottom of page 23 you say:—"The Meston Committee itself recommended that the contributions should be reduced as quickly as possible. The Joint Committee of Parliament recommended their entire abolition as early as practicable." Is that what you refer to when you say that does not make things better for Bombay, but makes them worse?—Exactly.

95. I will not delay you on para. 24, because perhaps those are rather general principles. At the top of page 27 you set out two main reasons advanced for centralising income-tax, the necessity of maintaining uniform rates and this difficulty about taxation at the source. Your proposal would still maintain uniform rates, would not it?—It leaves the rates untouched.

96. So that difficulty would not arise. You have told me what you think about the difficulty of taxation at the source. You think yourself that here in Bombay at any rate it is not so serious?—Not so serious as in other parts of India.

97. It has given a great deal of trouble at home. Then about page 31 you begin to refer to the Todhunter Report, and your actual proposals begin on

page 37. The only thing I want to ask you finally is this. You see, if the case you put forward, when we have heard evidence from all sides, from other provinces as well as from the centres, turns out to be right (I am not for a moment expressing any opinion; one can see it is very forcibly put), it would seem to me the case would be one which theoretically called for pretty substantial change. You are complaining not of a small but of a big thing, are not you?—Yes.

98. So I naturally look to see what you think can be done. Look at paragraph 29, "Limitations of the Problems." About six lines down you say: "The first such limitation which has to be recognised is that any change in the distribution of the heads of revenue must not be so arranged as to reduce the sum total of the present provincial revenues." Do you apply that to all provinces?—Yes. I take it this paragraph meets the question you put to me some time ago, as to the complaint on which we laid the greater stress. In this we have implicitly abandoned going specifically into what has happened in the past, and we are making proposals for the future. We recognise that any advancement in the future of one province cannot be made at the expense of the other provinces, if there is to be any peace.

99. The case you put forward is that in the future you are not suggesting that the correction of the injustice (as you regard it) is to be got by taking away from other provinces something which they have got now?—No, we have not proposed that.

100. You do not propose that. That knocks out any idea that some other province is going to give up something. Now, somebody has got to find it. Do you suggest the Central Government could find it at present?—Not at present. We do not suggest that.

101. That carries it as far as this, that whatever be the injustice and inequity, as a practical matter it cannot be corrected by taking anything from any other province and cannot be corrected as a practical matter, at least at present, by taking anything away from central resources. Then it seems to follow, and I think your paragraph goes on to say, that as a practical suggestion the province must look to future surpluses of the Government of India?—Quite so. We do not say that a fresh settlement in favour of this Presidency would prevent other provinces making the rate of progress they would make under the present settlement. When I say we are not doing it at the expense of the other provinces we mean we do not demand that any other province should contribute to us; we only ask for a resettlement which will give us a greater share of any future surpluses.

102. Because, if your general plan was adopted, one sees that a province like Bombay, which is the source, roughly speaking, of one-third of the total income-tax of India, would of course gain out of future increments more than a province which contributes very little in income-tax?—That is what we hope.

103. And you say "So it should." Now tell me one other small thing. On page 38 there is a phrase which rather intrigued me. It is, I think, the fourth in your list of balancing factors, "Receipts from excise duty on foreign liquor." I should think the word "foreign" ought to be in inverted commas; I suppose it does not mean imported liquor? I imagine "foreign liquor" there means not liquor imported from abroad, but liquor made here according to the recipe of Scotsmen?—Probably here it means both.

104. Can you have an excise duty on imported liquor? In what sense?—The Provincial Governments do take an excise on sales of imported liquor.

105. You mean the licence duty?—Yes.

*The Chairman*: Thank you.

*The Witness*: I should like to refer to one point,

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if I may. The reason which induced us to claim a share of the income-tax instead of following the recommendation of the Todhunter Committee was this. In our discussions with the Government of India in the last two or three years, ever since this Report was submitted, we have supported the proposals of the Todhunter Committee that we should get a share in the income-tax worked out in the manner which they suggested—i.e. the proceeds of a basic rate on personal incomes only—a graduated rate. But, when we came to work this out, we found great difficulty in arriving at satisfactory figures throughout India of personal income. We found grave reason to doubt the accuracy of many of the figures which were supplied to us by the income-tax officers. That was one reason which led us to try to escape from this difficulty if we could. We thought this difficulty of arriving at what is personal income might be a source of constant dispute between the Central Government and the provinces. Therefore, after consultation with the local income-tax officers, we concluded the simplest solution would be to ask for a share of the total income-tax.

106. I am much obliged to you. It would not be reasonable to occupy time on the very technical aspects of this. \* \* \* But when you talk about personal income, under your Indian income-tax system does every income-tax payer make a return of his income from all sources?—Yes, he is bound to under the law. I do not say he always does so in fact.

107. \* \* \* Does he include in it the dividends out of funds which are already taxed?—Yes, I think he includes that.

108. I suppose the idea of the Todhunter Committee was that as every one of these individuals was making this return as from a particular address, you could get theoretically a total of personal assessments which would undoubtedly be a total for the province and thereby avoid this complication of the proper attribution of the income of companies?—Yes, that is so.

109. Then I understand you to say that when you tried to work it out you found it was not really quite as easy to do as it looked on paper?—That is the impression we have gained. Whether they have improved their methods since I am not able to say.

110. *Major Atlee*: In Indian finance you moved from a wholly centralised revenue with arbitrary allotments to provinces, gradually to a sort of federalism?—You are referring to the last 20 years?

111. Yes.—Yes, undoubtedly.

112. Can you tell me what the kind of basis was on which these settlements were made with the provinces? Were they according to the wealth of the province, as to what it had got, or were they according to its poverty, or were they according to its needs, or were they according to how much the province could screw out of the Central Government in the past?—Well, I should think it was probably a little of all these in the old days, speaking of before the year 1904, shall we say, when the first really semi-permanent settlement was made. Then the Central Government really distributed the total revenue at its own wish. That wish was probably determined by the demands which the Central Government got from the provinces.

113. Then when you came to permanent settlements, I think you said that it was on the needs of the province?—The first permanent settlement was made in 1911, which divided up all sources within the province more or less equally.

114. You see, the relevancy of the question is this. You have set out a comparison as to how you were before we had the Meston settlement, and afterwards, and you have compared the position of various provinces. It seems to me that the amount that was got in previous years must have been very arbitrary?—It was, undoubtedly.

115. And the provinces may well say—take

Bombay: I am not saying it is a fact, but they might say—Bombay was always very successful in getting a big repayment from the Government in previous years, and therefore, when it came to divide up, naturally they have not done so well as other provinces?—I have heard that put. I believe it is very largely the case of Madras. Their complaint against the settlement of 1921 was that they claimed they had been so badly treated in the settlement of 1911 that they protested against that being more or less stereotyped by the final permanent settlement.

116. You have spoken of the position of the various Provincial Governments, as to how they stand, and you have also talked of incidence of taxation; but I think it is stated here, or in the Todhunter Report, that it is impossible to say how that incidence falls on individuals—the incidence of land tax, for instance, in the different provinces. You could not tell me—no one could tell me, probably—of the incidence of land tax on ability to pay in the various provinces, comparing their different systems?—I think where the ryotwari system is in force we could give you some evidence as to the incidence of the tax.

117. But in fact you have various systems, including, of course, the permanent settlement in Bengal, and so when you are looking at the thing from the point of view of India as a whole it is difficult to see exactly how the populations of the different provinces are faring in accordance with ability to pay, as to what they contribute to the Central Government?—I think it is, seeing that there are three or four very large ryotwari provinces and there are three or four very large zemindari provinces, and the zemindari provinces again vary according to whether the permanent settlement has been introduced.

118. What would you say now would be the view of the Bombay Government as between the provinces and the Central Government? Do you regard them as separate units having a contribution from the Central Government, and thereafter being able to spend their revenues at the standard of the wealth of the province, one being much greater than the other, or do you regard contributions of the Central Government as a means of equalising wealth, so to speak, throughout the whole of India, province by province?—I take it that the ideal which was aimed at by the Montagu-Chelmsford Reforms was to make the provinces autonomous; that is to say, that they should be in a position that they should have funds at their disposal, apart from any question of doles from the Central Government, which would enable them to perform adequately the functions which had been allotted to them. They have been given, for instance, education, public health, police, and so on, entirely to administer.

119. Yes, I have got that. That comes in with political autonomy; but in other cases one has had federations, and you have had units of different wealth coming in to form a federation and paying to the centre; while here you have a different thing; you have the centre distributing itself more or less into a sort of federal system, and the question is the relationship of these provinces of very different wealth towards the Central Government. Is it the idea that they pay a certain contribution, and thereafter they can spend their revenues, and it does not matter if the standard of administration is much higher, we will say, in Bombay than in Bihar and Orissa; or should the contribution to the Central Government be such that they can let off the poor province and heavily tax the wealthy province, to try and get a level distribution of wealth throughout India?—Which is the conception prevailing in the mind of the Bombay Government?—This is a point on which, I confess, I am not authorised to speak for the Bombay Government. I can give you my own view. From consultation with other people I think the general view of the Bombay Presidency is that we ought to be allowed to continue the progress



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which we have achieved hitherto, that we ought not to be asked to contribute to such an extent to other provinces that we shall be stopped in the race while they are trying to catch us up. We would hold that while we do not want to prevent other provinces from reaching the advanced stage which we have reached, they should be assisted rather by surpluses from the Central Government than by their neighbours.

120. In applying that principle to your own province, would you say that a deficit area, as it is alleged (I do not say one way or the other whether it is so) Sind is, should come up to the same standard as the others, although it is a deficit area—that the richer parts, Bombay for instance, should pay for the poorer parts?—So long as they are included within the province I think they are entitled to share in the amenities which we give to the rest of the province.

121. Now a further point. In your province there are large urban aggregations. You are the most urbanised of all the province. It is the case that these urban aggregations are a cost to the province, and if you have not got income-tax it makes your Government more costly without providing the funds to meet it? Is that so?—Yes, that is partly the case. It also means that we are driven to provide money for urban areas from the resources which are at our disposal, which are chiefly from the rural areas.

122. There is a considerable progress in industrialisation in India. India is now, I think, the eighth industrial Power in the world?—Yes.

123. And I think that Bombay has its full share in that?—Yes, certainly.

124. And in future developments in Bombay the capitalists are likely to venture in the future into other provinces?—I think it is quite probable.

There is a difficulty in my mind with regard to the allocation of income-tax. I think we admittedly came to the fact that there was a sort of rough justice done?

*The Chairman*: Yes.

125. *Major Atlee*: But it seemed to me that the rough justice was between the Central Government and yourself. Let me take such a case as Bihar and Orissa. I think there is a great Bombay firm which has made an industrial development in Bihar and Orissa—the Tata firm has great developments there?—Yes.

126. Surely under your scheme, as suggested, Bihar and Orissa are going to bear all the extra cost of these urban aggregations, but if we go on the shareholder principle probably the shareholders, and any way the head-quarters of the company, are located in Bombay, and therefore the income-tax will be shared between Bombay and the Central Government, and Bihar and Orissa will have the cost of the urban aggregation. Is that so?—I think probably some arrangement could be made in such instances. We had, for instance, an amicable arrangement with Bihar and Orissa. We had it under Devolution Rule, No. 15, whereby we agreed to take a certain percentage of income-tax of such companies, and Bihar and Orissa the other. That actually only came into force for one year or two years, because since then there has been no income-tax to distribute. It seems to me that some amicable arrangement might be arrived at in such cases.

127. Looking to the future, one could envisage a possible industrial development, and one would say off-hand that probably Calcutta and Bombay would take the lead in that; but if it came to any extent a big capitalist interest in Bombay and Calcutta in developing enterprises in other provinces, your rough justice might prove a very rough injustice on, shall we say, the labouring provinces as compared with the capitalist provinces?—Your point being that the boundaries of provinces are artificial?

128. Industrially, yes?—Yes, quite. I quite see your point. I agree that that would be a difficulty in future. It might be a considerable difficulty.

129. *Lord Strathcona*: On the question of super-

tax, is it the fact that in India super-tax is not the same as it is in Great Britain, but is simply a tax on the profits of companies—that there is no individual super-tax, I mean?—Yes, there is a personal super-tax as well as a company super-tax.

130. There is that as well?—Yes. The super-tax which we have referred to here, someone has explained, is not really a super-tax; it is really a corporation profits tax. The Todhunter Report actually calls it a corporation profits tax.

*The Chairman*: It is an extra income-tax if the company makes any more profit in a year than Rs.50,000.

131. *Lord Strathcona*: But besides that, there is an individual, personal super-tax?—Yes.

132. And in the same way the question of death duties. Is there a death duty tax now?—There is what they call probate duties, which are not really a death duty; they are probate duties which are collected in the High Courts only, and they affect only certain communities. Europeans, Jews, and Parsis only are affected.

133. *The Chairman*: I suppose it is a duty which is paid when the will is proved?—Yes, that is so.

134. There are some portions of the varied life here, owing to joint families and so on, where you would not be able to get a probate duty, would you?—A few Jews, and Hindus and Muhammadans, I think, who make wills, are also liable to the tax in the Presidency towns only, but not outside.

135. *Lord Strathcona*: I take it, then, that the suggestion here as to death duties is for a new form of taxation?—Yes.

136. *Lord Burnham*: It is only a probate duty; it is only on proving the will?—Yes.

*Lord Strathcona*: What is the succession duty now existing, do you know?

*The Chairman*: You do not mean the amount of it; you mean the nature of it?

137. *Lord Strathcona*: Yes; what is the rate or nature of general succession duty?—I am not sure that there is any general succession duty. There is now a scheme before the Government of India for the imposition of a succession duty.

*Mr. Premchand*: I think there is a small Succession Act, which is applicable only to a few people. It is of no universal significance.

138. *The Chairman*: When you say it is a balancing factor, it is not a very important one?—Not this particular one. I am referring in "succession duties" to the scheme which is now before the Government of India for a universal succession duty throughout India.

139. Just look at your page 31\* in the small book, the Proposals. You set out a list of balancing factors, 1, 2, 3, 4, 5 and 6?—Yes, on page 38, No. 6.

140. I think that is what Lord Burnham was speaking of?—We have explained that on page 40. The paragraph in the middle of page 40 says that "If death duties were levied on the same model as in foreign countries, a share of them will have to be given to the Central Government."

141. Yes. I do not think that is quite what Lord Burnham wanted to know. I think what he wanted to know, and I should like to know, too, in a sentence or two, was, are you referring there, under the head of succession duties, to something that already exists or something that is contemplated?—I am referring to the contemplated duties.

142. *Lord Burnham*: What is the one that exists, if any, now? What is the succession duty as distinct from probate duty which exists at present in Indian finance?—I am not able to answer that question exactly, because there is no general succession duty; but some succession duty has been referred to with which I am not *au fait*.

*The Chairman*: Mr. Premchand told us that it had a very small range of operation.

*Sir Hari Singh Gour*: There is a specific Act which applies to all members of a joint Hindu family, that is to say, whenever a succession opens, and in

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the case of persons other than copartners who are not members of a joint Hindu family they have to apply to a civil court for obtaining what is called a succession certificate, and on that—they mention all the deaths with their application—they have to pay a rate of 2 per cent.

*The Chairman:* I am much obliged. In effect it is like a probate duty, though it is not on a will, it is on a succession?

143. *Lord Strathcona:* You say on page 36\* of the Proposals: "Death duties at present are a small item of revenue included under Stamp revenue."—Those are the probate duties. They are included under court fees.

144. *Mr. Miller:* I would like to refer to page 39\* in the small book (Proposals), where it is stated that "The second method by which the deficit may also be reduced would be either an increase in the rates of Customs duties or else the normal growth of Customs revenue may also help in the same direction." Duties are already very high, and I think it is a fact that Government has more or less planned, or at any rate has expressed the pious hope, that if any of the existing duties should produce an appreciable increased revenue, the rates would be reduced. On what commodities, therefore, would you suggest that the Customs duties might be increased, or what new duties do you think should be imposed?—I am not prepared to make any detailed recommendations. It is generally in the nature of a pious hope that the increase of Customs duties will help to reduce other taxation. You will see that during the last few years the revenue from Customs duties has been normally increasing. It was anticipated that that would help.

145. You were depending on an increased yield of the present duties, not on new duties?—I should rather lay stress on that than on any further duties.

146. On page 39\* you refer to the excise duty on locally made cigarettes and pipe tobacco and you say "as a rough estimate, therefore, it may be safely concluded that if the major portion of the duty on tobacco was assigned to the Government of India, a sum of 2 to 3 crores would become available for that Government." I want to know whether there are any figures on which this statement is made or whether it is a rough estimate?—It is a rough calculation based on the Todhunter Committee. They were very strongly in favour of putting on a tobacco duty. We made some inquiries and found that any duty of this sort is difficult to put on in a single province because of the risk of smuggling and the suggestion is that if it is put on by the Central Government it might give a large revenue as the Todhunter Committee has suggested.

147. Is there actually locally manufactured pipe tobacco?—No. The point is not of great importance in the Bombay Presidency. There is very little tobacco manufactured in Bombay.

148. *Dr. B. R. Ambedkar:* Your scheme asking for a share of the income-tax is really more intended to produce a certain amount of elasticity in the revenues of the Government of Bombay than as a rectification of any past error or wrong?—Certainly.

149. You are asking it because the income-tax is a more elastic source of revenue than any other sources of revenue handed over to you?—Yes, that is one reason.

150. Your scheme involves the transfer of non-judicial stamps to the Government of India?—Yes.

151. Do you not think that that is also a very elastic source of revenue?—Its elasticity has been proved during the last few years by continually falling at a very steady rate.

152. The taxing of "futures" would be a considerable source of revenue to the Government of Bombay?—It would, but that is not at present being taxed at all.

153. It might be regarded as a considerable source of revenue?—Yes.

154. And from that point of view you would not like to transfer it to the Government of India?—That is a point for consideration. The Government of Bombay has brought that to the notice of the Government of India when we agreed to this redistribution.

155. With reference to the excise revenue, do you think it is advisable to transfer excise to the Government of India as a central source having regard to the fact that first of all it is an indirect taxation which ought to go to the Central Government and secondly because as you say there is a certain amount of competition in the matter of the sources of this tax between the Provincial Governments and the Government of India?—For instance you know that the country-made foreign liquor is taxed by the Government of India?—Is that so?

156. And the Bombay Government taxes only the country-made liquor?—I think we are taxing country-made foreign liquors; we have an excise duty.

157. This competition in the matter of taxation does to a certain extent impair the policy of the Government of Bombay so far as prohibition is concerned?—I prefer to meet that by transferring the activities of the Government of India to the Government of Bombay rather than *vice versa*.

158. Is your proposed settlement intended more or less to produce an amount of revenue that will be adequate for your normal needs?—Yes.

159. Besides its normal needs the Government of Bombay has during the last ten years taken upon itself the responsibility for certain abnormal expenditure such as, for instance, prohibition and compulsory primary education?—I would not admit that the latter was abnormal.

160. It certainly would not be a normal source of expenditure because it is a new item?—It is an extraordinary item.

161. Not included in the normal expenditure?—You may put it so.

162. So these two important things still remain to be provided for?—Yes.

163. They could not necessarily be met from the new settlement you propose?—No.

164. Do you think that the readjustment of the settlement will involve a certain amount of extra taxation?—I think it probably will.

165. Do you think that the Bombay Legislative Council as it is composed to-day would consent to any extra taxation being imposed?—I do not; not at any rate until the new settlement comes into force.

166. Supposing some settlement is reached?—I would rather not express an opinion on that. I think the revision of the settlement could alter the opinion of the Legislative Council to some extent.

167. Whatever new sources of taxation that you may have to impose would of course affect the richer classes?—Which taxes are you referring to now?

168. Any new taxes which you may propose for meeting the deficit due to the prohibition policy or to the introduction of compulsory primary education? For instance, when you think of new sources of taxes, you may naturally think of taxation on agricultural incomes or death duties, taxes which affect the richer classes?—I should prefer to say that we hope that would be the effect; but it is impossible to give an answer to a hypothetical question of that sort.

169. Having regard to the present composition of the Bombay Legislative Council, do you think that we can carry through any proposal for taxation of the sort I have mentioned or would it be difficult?—It is very difficult to answer a hypothetical question.

170. Are you in favour of the separation of the accounts between the Government of Bombay and the Central Government?—In theory undoubtedly yes.

171. You do not think there will be any drawback in that? For instance, some persons think that if you separate the accounts of the Government of Bombay from those of the Central Government,

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there is a danger of the provincial accounts officers secreting the accounts from the central audit officers? That is, they will not give the necessary information to the Audit Officers of the Government of India and the Audit will therefore suffer?—I do not think there is the least probability of that.

172. Are you in favour of the separation of the balances between the Government of Bombay and the Government of India?—It is a little difficult to answer yes or no. I think the separation of the balances must follow from the separation of the accounts and from a complete provincial autonomy I think it is bound to follow.

173. Can you not have a mere separation of accounts without a separation of the balances?—Certainly.

174. Therefore I do not think you are quite right when you say that it must follow?—It is the logical following up of the position. In the United Provinces, for instance, they have already introduced the separation of the accounts; but they are in a period of transition and the idea is that the separation of the balances will eventually follow.

175. Do you favour it as a necessary step in provincial autonomy?—I think it is desirable that an autonomous province should be in charge of its ways and means and you cannot have it unless you have the whole of the balances at your disposal.

\* \* \* \* \*

176. *Khan Saheb Abdul Latif Haji Hajrat Khan*: Is it desirable to put a fresh tax like the tobacco tax to make up the deficit in the Government of India's budget?—I tried to explain that the only way that Bombay can benefit from any revision of the settlement is from surpluses of the total revenues of India. Those total surpluses must come from somewhere, either from the natural growth or from other taxation. You cannot have your revision of the settlement without the surpluses coming from somewhere.

\* \* \* \* \*

### Afternoon.

MR. G. WILES, C.I.E., I.C.S.—continued.

\* \* \* \* \*

1. *Rao Saheb D. R. Patil*: This morning you answered one of my questions to the effect that on account of the unsatisfactory settlement of the Meston Award the Bombay Council could not make much progress. I want now to bring to your notice the following statement, which is contained on page 595 of the Memorandum prepared by the Government of Bombay.\* At the end of the second paragraph you will find that it says: "The detailed figures of the growth of expenditure since 1910-11 are discussed in Appendix A. The detailed review there given shows very clearly how Bombay's administration has been in most cases not only not progressing, but either remaining stagnant or actually retrogressing." How do you reconcile your previous statement with the statement I have just read?—I am afraid I do not see any discrepancy.

2. You do not see any discrepancy?—No. I said we had not made such progress as we should have liked.

3. Here it is said Bombay's administration has remained stagnant or is actually retrogressing. Do you say there is no discrepancy?—This is put more strongly than I should be prepared to put it myself. I should like to cut out the word "most."

4. So there is no discrepancy, according to you? It is only that stronger language has been used?—Yes.

5. *The Chairman*: I agree the point put is important, but I think we may remember generally

177. *Rao Saheb D. R. Patil*: Bombay Presidency is taxed the highest when compared with other provinces?—Yes.

178. Do you admit that on account of the Meston Settlement our Council has not made much progress in the nation-building departments?—It is true to say that we have not made so much progress as we would have made with a different settlement.

179. Do you think that we have not made much progress in the nation-building departments owing to this settlement?—We have made a certain amount of progress, but have not made so much progress as I should like to have seen or as you would like to have seen.

180. Do you remember that Mr. Turner made a statement in the last Council that on account of the short purse of the Government of Bombay no more grants could be given to the nation-building departments?—No; I am not aware of any statement of that sort having been made.

181. Do you think that the Bombay Council is in a position to give more grants to the nation-building departments having regard to the short purse of the Bombay Government?—I find it rather difficult to answer your question put in that way.

182. On account of the financial stringency of the Government of Bombay we cannot give additional grants to the nation-building departments unless the Meston Settlement is adjusted on a more satisfactory footing?—That is a fact.

\* \* \* \* \*

185. Is it not a fact that the anticipations of the Meston Committee in the matter of growth in respect of the various heads of revenue have been completely falsified by events?—It is true, yes.

186. You ask only for half a share of the income-tax from the Government of India. You do not want more?—We do not think it is practicable to ask for more.

\* \* \* \* \*

this. In this large book, Chapter 7 deals with the Reserved and Transferred departments and the working of the system of government in those departments. It contains a number of facts and figures which seem to me to confirm what the witness has said; they show, generally speaking, that there has been an advance, but that does not at all contradict the other statement that it is a pity the advance has not been more rapid, and that if it is to be more rapid then somehow or other money must be found. Is that the point?—Yes. The difficulty has been cumulative. We started off the Reforms with large accumulated balances which assisted us a great deal, and it is only in the last two years that we have come up against this problem where we are no longer progressing.

*The Chairman*: That puts it very clearly.

6. *Mr. Premchand*: You are in general agreement with the proposals contained in the Bombay Government's Memorandum, Part II, regarding finance?—Yes, I am in general agreement with them. I am not responsible for the language, I may add.

\* \* \* \* \*

8. In clause 22 on page 20\* you observe: "The aim of every financial settlement must be to ensure adequate resources both for the present and future needs of the various Governments." Do you think that you have to-day anything like this in the Government of Bombay?—Certainly not.

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9. If not, can you give me a figure approximately indicating what further revenue you want for this purpose? Would it be a crore or two crores or what?—It would be very difficult to give a figure. I can give you a rather general idea of the activities which are being curtailed. We have tried to give that at some length in another part of the memorandum.

10. But you could not give a figure?—For instance, we do not see our way to financing the Primary Education Bill, which purports to introduce compulsory education. A great many of these schemes are held up because we cannot finance them at present. We have a big scheme in Bombay for medical relief for which we expect to experience great difficulty in finding the recurring expenditure. We are being asked for large sums for agriculture which we are not able to find, and so on through the whole administration. On the reserved side, we have curtailed the police establishments probably beyond the limit of safety.

11. But you could not give any rough figures?—Not any that would be of any service; I am afraid they would be so open to criticism that I should be reluctant to give them.

\* \* \* \* \*

Do you, Mr. Wiles, attach so much importance to the readjustment of the financial position that you regard that as an essential part of the review of the Reforms? \* \* \* —I can say yes to that.

\* \* \* \* \*

16. Do you consider that the port of Bombay is so important to India as a whole as to require such share of capital expenditure to be taken into account in readjusting financial provisions with the Government of India?—That is a point I have never considered. I should be reluctant to give an answer to that off-hand.

\* \* \* \* \*

Mr. Premchand: In para. 26\* under (1) you say: "the taxes are assessed by state authorities with additions for the use of the Central Government."

\* \* \* \* \*

19. Mr. Premchand: Do you contend, by what you say in (1), that you should be able to increase the income-tax for provincial purposes?—(1) is not a proposal; it indicates only one of the various methods which could be adopted.

20. Does that mean increasing income-tax for provincial purposes?—Not necessarily.

\* \* \* \* \*

22. Sir Arthur Froom: I am referring to Chapter IX of the Memorandum prepared by the Government of Bombay. The history given there represents the Government of Bombay's views on the Meston Settlement, does not it?—Yes.

23. Have these views been subscribed to generally? Have they been backed up by Bombay as a whole? I am not speaking of government officials, but of the residents of Bombay. Would this Conference be right in understanding that not only are these the views of the Government of Bombay, but that they are the views of all the communities in Bombay?—I think I can say that without any fear of contradiction. There has been complete unanimity amongst all sections of the Bombay people on this particular matter of the Meston Settlement.

24. Would you suggest that that perhaps carries more weight because the Bombay Government does not always receive the support of all parties for their proposals? Perhaps you would think that for that reason this carries more weight?—Such complete unanimity is a little unusual; I can say that.

\* \* \* \* \*

25. Sir Arthur Froom: I remember—you refer to

it in this blue book—the meeting in the town hall of Bombay of citizens at which all communities and creeds were represented and backed up the Government's views in their objections to the Meston Settlement. That meeting took place, I think, in July, 1920; is not that so?—That is before I came to Bombay.

26. It was in July, 1920; I remember it perfectly well. Government, having the backing of everybody in Bombay, proceeded with a greater heart to give their views. Let me take you back a minute to provincial contribution. I understand the Government of Bombay, in concert with all the other Provincial Governments in India, pressed for the abolition of provincial contributions; is that correct?—Not exactly. In fact, when the first provincial contributions were in process of being remitted, when the Bengal contribution was remitted, Bombay protested, and there was a protest from the Legislative Council of Bombay when the next instalment (the first permanent instalment) of the remissions was given, on the ground that this placed Bombay in a yet more unfavourable position *vis-à-vis* the other provinces.

27. Am I correct in thinking Bengal never paid anything?—That is so.

28. Therefore Bombay did not see why they should pay?—We thought we were in a very similar position.

29. That is rather natural, having the view that Bengal and Bombay were the biggest subscribers to income-tax and should be treated on the same basis?—Yes.

30. I should like to bring you down to what may be considered as the whole trouble of this Meston Report. Bombay (correct me if I am wrong) objected to getting no share of the income-tax, did not they, and at the same time in the Meston Report an endeavour was made to show how Bombay would get an increasing share of revenue under what they hoped would be progressive receipts from land revenue, excise and general stamps?—Yes.

31. The Meston Award tried to make out they would get an increasing share of revenue under those heads?—Yes.

32. I do not wish to take you into the rather intricate question of datum years, but would the Conference be correct in understanding that in the Bombay budget for 1928 they expect to receive no less than 5 crores of revenue short of the estimate under the Meston Award?—I should like a little time to work that out; I am not certain of the figure.

Sir Arthur Froom: The figures I have before me do show that.

33. The Chairman: This is very important. Where shall we find the figures?—The question is discussed on page 592 of the Memorandum.\*

Sir Arthur Froom: The figure I have in front of me is put in by the Bombay Chamber of Commerce.

The Chairman: 5 crores sounds a great deal if you are comparing two comparatively small totals, but not if you are comparing very big totals, and I do not know what the totals are.

Sir Arthur Froom: I will read them out. Land Revenue, 1928-29, is estimated to be short by 212 lakhs of rupees of the estimate provided by the Meston Committee. That is one head. Excise (i.e., excise on liquor) is estimated to be short by 253 lakhs—2½ crores. Under General Stamps there is an estimated shortage of 45 lakhs. If those are added up, you get a shortage of revenue of 510 lakhs, which is about 5 crores.

Colonel Lane-Fox: Is that for the present year?

34. Sir Arthur Froom: Yes, for the present financial year. It is estimated the revenue of Bombay will be 5 crores short of what the Meston Committee estimated it would be.—That must be very nearly true. If you turn to page 593 of the Memorandum of the Bombay Government\* you will see that the deficit under Excise is 249 lakhs. That is at the bottom of para. 523.



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35. *The Chairman*: "Instead of realising an additional revenue of nearly 193 lakhs . . . the Government of Bombay are realising 56 lakhs less than even the base of 430."—Yes. Similarly, the next paragraph (which deals with revenue from Stamps) shows that instead of being 41 up we have lost nearly 28, a difference of 69.

36. That is on Stamps?—Yes. With regard to Land Revenue, the calculations of the Meston Committee would give us 605 lakhs, whereas the revised figure for the current year is 449.

37. *Sir Arthur Froom*: What does that come to if you add it up?—474. I make it.

*Sir Arthur Froom*: My estimate was 5 crores; you make it 474 lakhs, or 4½ crores. That is the point I wanted to make particularly.

\* \* \* \* \*

38. *Sir Arthur Froom*: Yes. Then there is Excise and Stamps. Mr. Wiles's figures and mine (his taken from the Memorandum and mine from this statement) agree within ½ of a crore, which is immaterial for my argument. He says they are short by 4½ crores and I say they are short by 5, but anyhow it is by a very large sum. My point is this. If the calculations of the Meston Committee after a number of years prove to be woefully wrong (I am not criticising them too much for a miscalculation), what I suggest to the witness is that the Government of Bombay feel that, as this Award was based on entirely wrong calculations and in effect they are short of their estimated revenue by 4½ or 5 crores of rupees—a huge sum—the Government of Bombay have a very strong grievance. Would you put the opinion of the Government of Bombay in that way?—Yes. May I make one small explanation? It is with regard to these figures of Land Revenue. There is a discrepancy between the figures given by the Bombay Chamber and those given in this Memorandum. I find the difference is due to the fact that the Bombay Chamber's figures include revenue due to Irrigation, whereas these figures in the Memorandum do not. There is the difference. Our budget figures for the current year are 538 crores, and theirs are 593; but 55 lakhs of revenue from irrigation have been omitted from our figures.

*Sir Arthur Froom*: That would probably make my figure of 5 crores correct.

39. *The Chairman*: Sir Arthur's point for the purpose of our argument seems to be perfectly established, and you agree with it, I gather, in principle?—Yes.

*Sir Arthur Froom*: I think it is established that Bombay's revenue has not worked out in the way the Meston Committee thought it should. Now I will continue. Your suggestion, I think, was that half of the income-tax should go to Bombay, and then our Chairman pointed out that it might not be entirely fair, because there are companies paying income-tax in Bombay of which the shareholders are outside the Presidency; but still, taking it by and large, there might be very big business concerns in Bengal whose shareholders lived in Bombay. Would it be correct to assume that on the average it would not, perhaps, work out altogether incorrectly for you to take the income-tax paid at source instead of on personal income? For once you try to start working out personal incomes you start, I am afraid, a very considerable addition to your income-tax staff. We do not want any of these income-tax authorities to be top-heavy, and a lot of the income-tax which should go to the Government of India, and probably something to Bombay, to be wasted in salaries; and added to this I think it should be remembered that some of the income-tax which is deducted at source by companies may never be returned at all. The income-tax authorities in India have improved very greatly in recent years, but still I do think that a good many people escape paying income-tax at all.

*The Chairman*: I do not know the details of your system here, but in England the company pays

income-tax on the whole of its profits, whether it distributes those profits in the way of dividend or not. In England, if the company resolves to use a portion of its profits for the creation of bonus shares, or to dedicate them for the purpose of improvement, and never distributes them, the Revenue will yet tax the whole of the profit, though the shareholders will never have the whole of those profits distributed in dividend. Is not that right?

*Sir Arthur Froom*: That may be so, sir.

*The Chairman*: It is certainly the law in England.

*Sir Arthur Froom*: The whole difference, I think, will never amount to such a large sum as to warrant setting up a new machinery for determining these personal income-tax returns, and, as I say, some of the income-tax returns are not returns at all, I am afraid.

40. *The Chairman* (to the witness): Is that your view?—Yes. I understand Sir Arthur to say that his fear is that although income-tax may be paid at source by the company, yet in making the personal income tax returns much of that income will escape notice. The object of the return is to fix the standard of assessment, the rate at which income-tax shall be paid. It is not a question of paying income-tax so much as a question of fixing the rate and from carelessness or from deliberate fraud these returns may not be so accurate. That was what I meant when I said this morning that we anticipated considerable difficulty in arriving at a proper return of personal incomes; but it is really an administrative matter, with which the income-tax office can deal better than I can.

*Sir Arthur Froom*: I will now come to the summary of your proposals, and on page 38\* the Government says: "Our proposal, therefore, is to claim a half share of the total taxes on incomes and sur-render the items of revenue under non-judicial stamps." Then when we come to Bombay, very appropriately, if I may be allowed to say so, I understand that you cannot go and get a bigger income from Bombay without it coming from somewhere; which is, of course, a very obvious remark to make. Then Bombay go on and suggest how the Central Government should recoup itself for the six crores which they are going to lose from the central source of revenue, out of income-tax. Now I should just like to mention one or two items, not particularly with the idea of being critical, but I hope with the idea of being helpful. Take company tax. You refer to company tax; it is what we call a super tax on companies. It is quite distinct from super tax as some of the gentlemen round this table pay it. It is not a personal super tax; it is a super tax on companies. Now, I think I am correct in saying that that amounts to between 3 and 4 crores of rupees. Many of us in the Central Government have objected to this company tax. It has been held to be wrong; it has been held to be a tax on trade, and therefore a tax on people who are trying to help things to go in the country. My recollection is that the Commerce Member said, "Well, I will bear this in mind, but I have got to get these provincial contributions out of the way first." So there is on record somewhere in the Government of India that they do recognise that this company tax is a wrong tax, and that when they can they shall do away with it altogether. So bang goes two or three crores.

I think my friend, Mr. Miller, has dealt with the question of customs duties. Everybody thinks that the import duties of this country are on a rather high basis, and the Commerce Member said for himself that he wanted to reduce them if he could, and he proposed to do so when he could. In fact, if you remember, he has already reduced the customs duties on motor cars from 30 per cent. to 20 per cent. in the last two years. So I do not think the Central Government will hope for anything great in the way of customs duties. We are therefore rather left, as far as one can see, with the tobacco excise, which I

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do not think anybody could grumble at, as there is an excise duty on tobacco in every country in the world, I think, except India. I quite agree with the Bombay suggestion that that ought to bring in a large sum of money.

*Sir Hari Singh Gour* : Not more than a crore and a half.

*Sir Arthur Froom* : Sir Hari Singh Gour may like to point out that it will not be so. Personally I think it would be a considerable sum of money. Then another, and very much debated source of revenue, is death duties. Most countries have death duties; they are very much objected to, but unfortunately most countries have them, and whether India will have to come into line and suffer with other countries in the matter of death duties remains to be seen. But what I am trying to point out is that two of your heads, the company tax and any very large increased revenue from customs, are both rather problematical. Then turning to your statement here, it seems to me that the Government of Bombay have rather anticipated that they will not get their six crores back immediately from these taxes. I should like to congratulate, if I may, the Government of Bombay for giving this table, because it shows that the Government of Bombay must be reimbursed. You have got to carry on the Central Government, and it must be reimbursed; so I say I should like to congratulate the Government of Bombay on setting forth this Table No. 5\*, and it seems to me that for some years at any rate it will have to go into operation. Is that your view?—Yes. It was never anticipated that we should get an immediate return from these taxes.

*Sir Arthur Froom* : There is only one other subject. I do not know whether the Chairman will allow me to put it; it is not in this book directly. That is the question of loans. Would loans come in this part of the inquiry, Sir?

*The Chairman* : I think as far as the question is whether the present constitutional position of the province in regard to loans is satisfactory, it certainly comes in. I mean, there is the one aspect, which is the extent to which the Government of India might endeavour to exercise control, and there is secondly the question of the wish of the province to have more freedom *vis-à-vis* the Secretary of State or the London market. Yes. I think both those matters are in order.

42. *Sir Arthur Froom* : This smaller blue book has been written on the financial side, with the idea of some provincial autonomy, has it not?—Yes.

43. And therefore loans, as our Chairman says, do come into the picture. I am not an authority on loans, but do you visualise that the Government of Bombay in the future, supposing it has provincial autonomy, should raise its own loans, or should it go to the Government of India and say, "We want so many crores of capital money: will you please lump it in together with your loan programme, which will come forward this year?" That, of course, is the present arrangement, is it not?—Yes, more or less.

May I put this to you, before you answer the question. Would you consider whether locally raised loans guaranteed, say, by the Bombay Presidency, would require a higher rate of interest than a loan guaranteed by the Government of India; and equally whether there would be a certain amount of competition to get into the market as between Bombay, Madras and the Punjab? Have you considered that point?

44. *The Chairman* : What does the witness say about that?—We have, of course, often thought about this question incidentally. My own view is in favour of some central authority for raising loans, partly for the reason you have already given, that we should be competing with one another, probably, in the market at the same time, but also because I feel that the federation of Indian States should club together for this purpose, that smaller States like Bihar and Orissa, whose credit might not be so good as ours, have every right to claim a share in our

credit. Some central co-ordinating authority for the raising of loans throughout the whole of India while not raising the price much, if at all, to Bombay and Bengal and the richer provinces, would give the smaller provinces a share in the credit of India, and therefore while not so much in favour of the Government of India running it, I think there should be at any rate some central co-ordinating authority which could give every province its loans at a simple rate which would probably be the same rate at which the Government of India can raise their own loans.

45. *Lord Burnham* : You will have observed that the Commonwealth of Australia has just moved in that direction?—Yes, I did see something of the same sort had been done there.

46. *Sir Arthur Froom* : So that on this occasion, Bombay putting forward those ideas, might be regarded as entirely unselfish, really, as offering assistance for lesser provinces whose credit would not be so good? That would be so?—I should not like to take credit for that; but the system does relieve provinces themselves of a great deal of worry and nuisance in raising these loans.

*The Chairman* : Would you develop this a little more? It is a thing I need help about. As things are at present, when a province wants to raise money it cannot raise it, can it, in the open market without the assent and through the instrumentality of the Government of India?

*A Member* : The Government raise the loan, and then charge an extra  $\frac{1}{2}$  per cent.

*The Chairman* : That is another meaning of the word "commission." What I wanted to know was, does the Government of India retain the right to say to a province, "I have your application, but I am afraid I cannot manage it for you"?

47. *Sir Arthur Froom* : I think Mr. Wiles could answer that better than I.—There is an Act called Local Authorities Loans Act, which lays down the powers of local Governments in relation to borrowing.

48. *The Chairman* : Yes. That reminds me that there is a note on this matter in the Montagu-Chelmsford Report, at para. 211, page 173. They say: "We are prepared to go further. If the Government of India finds itself unable to raise the money in any one year which a province requires, or if there is good reason to believe that a provincial project may attract money which would not be elicited by a Government of India loan, we would allow the Provincial Government to have a recourse to the Indian market. But in that case we think that they should secure the approval of the Government of India to the method of borrowing, including the rate of interest, so as not to affect investments in the post office," and so on. Was that suggestion, in effect, embodied in the Statute?—In these Local Government (Borrowing) Rules.

I mean the proposal which Sir Arthur mentioned, and which you approved, according to which, as I understand, you might have some co-ordinating body acting for the various provinces if you wanted to raise money?

*Sir Arthur Froom* : Yes, that was it.

*The Chairman* : What I wanted to follow was, would such a body act without the lead of the Government of India, and it may be in competition with it, or is the idea that this co-ordinating body would still, though acting for the provinces, act hand in hand with the Government of India?

49. *Sir Arthur Froom* : It would work with the Finance Department of the Government of India, I gather. That is so at present?—It is so at present, but it does not follow: the Government of India can delegate its authority to a separate body.

50. It can do so?—That is what I would suggest, rather.

*The Chairman* : Yes, there is a lot about it—I remember it now—in the Local Government (Borrowing) Rules. I see the point now.

*Sir Hari Singh Gour* : \* You \* have \* said \* that \* on

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[Continued.]

account of the shortage of money in your Presidency you have not been able to develop the nation building departments as well as you might. Now will you kindly refer to the big book, the expenditure on education *per capita*, at page 626\*. I think it gives there the expenditure *per capita* on education.

\* \* \* \* \*

52. *Sir Hari Singh Gour*: I will first draw your attention to the second table on that page. While Madras is spending 3·7 rupees, Bombay is spending 7·3, which you will find is, with the exception of Burma, the largest in the whole of India?—Yes.

53. In other words, you are spending twice as much on education *per capita* in Bombay as the people of Madras are spending?—Yes.

54. And the other provinces, like Bengal and the United Provinces, are only spending 2·4 and 2·5 *per capita*?—Yes.

55. In view of this fact, do you still assert that education in your province has been starved compared with other provinces?—I have never asserted that education has been starved.

56. Would you like to spend more than twice as much as the other provinces are doing on education?—I say we have reached a stage now when we cannot spend any more on education than we are spending at present.

57. Is not that a larger question, applicable to the whole of India, and much more applicable to the other provinces which have spent far less than you have spent?—Possibly; but I should draw your attention to the fact that this is not a new phenomenon, that we are spending twice as much as Madras.

No, but I am just bringing you to visualise a new phenomenon presently; that is, about the Bombay development, in which you lost a lot of money. That is a new phenomenon. I will come to that presently. Now, so far as education is concerned, it cannot be said that you have suffered in relation to the other provinces in the matter of education?

\* \* \* \* \*

58. Now look at Madras, please. Madras has spent 218 lakhs on education: is that so?—Yes.

59. And Bombay has spent 205?—Yes.

60. And the rest of the provinces have spent very much less; Bengal 158; the United Provinces 141; Punjab 170; Burma 56; Bihar and Orissa 87; Central Provinces 137; and Assam 29?—Yes.

61. That is surface area?—Population.

62. Yes, on the basis of population.—Now if I may add, before you go on—the remark I made this morning related to progress. These two statements are static. If you now look at statements 10 and 11 you will see a comparison of progress, which shows that if one compares the progress of Madras and Bombay since 1921, say, when the Reforms came in—that is on pages 620 and 621—Bombay in the year 1921–22 spent 172 lakhs, and Madras spent 142.

63. *The Chairman*: On pages 620 and 621,\* taking them together, the left-hand side is Bombay and the right-hand side is Madras. The result is, as I follow it, taking the column Education, that in 1921–22 here in this Presidency 172½ lakhs were spent on education and at the same time in Madras the amount spent on education was 142 lakhs. Now, what is it you want to contrast with that?—My point was that when I made my remarks this morning I was talking about progress.

64. I know.—Even in 1921–22 the *per capita* expenditure in Bombay was double what it was in Madras, so the question is one of relative progress. That is what I wish to stress—rather natural progress. It is no argument as regards the Meston Settlement either one way or the other that Bombay is spending twice as much as anyone else, because we spent that before the Meston Settlement was thought of.

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65. *Sir Hari Singh Gour*: I take you to the Committees. You all accepted the Meston Award when it was given; all the provinces did so. You found that you had bartered the income-tax for land revenue, and because you did not make a progressive increase in the realisation of land value you said you had made a bad bargain?—We never made a bargain, excuse me. Neither Bengal nor Bombay ever accepted the settlement; they both protested against it at the time it was introduced.

66. When did you first protest against the Meston Award? How long after it was given effect to?—I think the report was dated 11th April and the letter of the Bombay Government was dated 8th June.

67. Surely you were not the first to fight against the Meston Award. It was Bengal?—I do not know about the public protest. I am only giving you what actually happened. The report was signed in April, and it must have come out shortly afterwards; and the protest of the Bombay Government to the Government of India was sent out in June.

68. But so far as the public protest against the Award is concerned, your representatives did not protest against the first Award as you told us just now, but they protested against the discrimination, viz. the suspension of two crores of provincial contribution that was made to Bengal. That was the fact?—That was another protest.

69. That was the origin of your first protest. You said: "You have suspended two crores of annual contribution to the people of Bengal. Now what ever was given to them, give us also the same remission of the contribution." That was your protest in 1922–23 for the first time?—Are you asking me to agree that the first protest was made by Bombay when remission was made to Bengal?

70. You did not make the protest because you did not feel the pinch. You made the protest because Bengal got two crores of remission?—I do not agree. We made the protest immediately on grounds both of theory and of practice.

71. I am not referring to your protest in the Legislative Council?—No.

72. Now the situation is you want now a resettlement with the Central Government, and you still say that you wish to get a percentage of revenue from income-tax. At the same time you do not want any resettlement with the province of Madras?—I have not said so. Any new settlement will apply equally to all the provinces.

73. You want a readjustment of finances of all provinces in relation to the central revenues?—Certainly.

74. *The Chairman*: I understand that the witness's view is that he is naturally interested primarily in the Bombay case and that the remedy proposed is a revision of the settlement, which would apply equally to all the provinces. No doubt Bombay will gain by it more than the other provinces, because it produces more income-tax. But still he is applying the same formula everywhere?—Yes.

75. *Sir Hari Singh Gour*: I suppose you will concede that the Central Government did not agree to any specific relief you wanted. You fought against the Meston Settlement. All you want is a reconsideration of the Bombay case?—We want more than a reconsideration. We want a resettlement.

76. But not necessarily in every detail in the manner you desire? A resettlement may give you more money, or it may leave you where you are?—Yes.

77. Now as regards your budgets and the deficits for the last few years, I would ask you to kindly glance over paragraphs 2, 3 and 4 at page 35 of the Government of India document\* in relation to your budget. You will find there this: "The budget of 1923–24 would have shown a small surplus, but for the interest charges of Rs. 63 lakhs on account of the Development Department. In the following year again in spite of retrenchments in expenditure to the extent of Rs. 32 lakhs recurring, the budget

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"anticipated a deficit." And then with regard to the remedies, you will find in the next paragraph: "Apart from the financial embarrassments caused by ventures such as the Bombay Development Scheme, these difficulties would seem to be due largely to the fact that Bombay is the most highly industrialised province in India and that it has a higher proportion of urban population than any other province. The standard of living is comparatively high in the industrial cities of the Presidency and, owing to the migratory character of the labour population, this has, it is stated, indirectly affected the standard in the villages, to which most of the villagers, who resort to industrial centres, retire after a certain period. The scales of salaries particularly in the subordinate services are much higher than in the other provinces, partly, it is stated, on account of the cost of living and partly on account of the alternative avenues of employment provided by industrial concerns"; so that one cause of your misfortune in 1923-24 and later on was this Development Scheme?—Undoubtedly, but not to the extent one would understand from this. In regard to this I only wish to say that the statement made in this book that—"The budget of 1923-24 would have shown a small surplus but for the interest charges of Rs. 63 lakhs on account of the Development Department"—ought to be expanded a little. It is not quite correct, in the form in which it is put.

78. Now Mr. Wiles, I wish to draw your attention to the financial relations in another book.\* At page 984 the position is clearly summarised. It is this, that the Provincial Legislative Councils have been given power to tax without the sanction of the Governor-General for purposes of the Local Government. You have got there 8 distinct heads of revenue, and then you have got below 11 heads of revenue. The question I wish to ask you is this. If you really wished to reinforce your nation-building departments, did you resort to the levying of any of the taxes under this head which you are entitled to do without the sanction of the Government of India?—Yes. You will find a list of them somewhere in this book. I can detail them. We had an entertainments tax; we had a tax on gambling; we have enhanced registration fees, and we have also enhanced stamp fees.

79. Now the most important point I wish to draw your attention to is No. 2, a tax on succession or succession by survivorship in a joint family. Now, you have got a very large number of wealthy people living in Bombay. That is your case. Yours is a very wealthy industrial country. Why do you not levy a tax under head 2, which you are entitled to and which would have brought in more money?—This question has been under consideration at least for six years in the Bombay Secretariat. We got as far some years ago as drafting an Act. It was sent to the Government of India and to other local governments for their opinion. Shortly after that the Taxation Enquiry Committee was appointed, and they investigated amongst other questions this question of the inheritance tax, and made certain

recommendations which must be known to you. After those recommendations were made the local governments all (I think in conference) considered this question, and I believe I am correct in saying that it was the unanimous opinion of all local governments that a succession tax could not be successful unless it was administered by the Central Government. That is the only reason why we have not put on a succession duty. There is great difficulty of administering it as a provincial tax.

80. Did not your Government draw up a note suggesting the levy of death duty with reference to what had transpired in the Legislative Assembly only about eight months ago? The Taxation Committee in paragraph 377, page 276, of their report state as follows:—"To prevent evasion of the duty on shares of deceased members by allegations of oral relinquishments or partitions, it should be provided that no partition or relinquishment of family rights would be recognised for the purpose of the duty except those represented by registered instruments." Now, what the Government of India did was to introduce in the Council of State a Hindu Partitions Bill which was passed by that body without criticism, but when it came to the Legislative Assembly I had the misfortune of pointing out to the Government of India the difficulties in the way of administering that Act and the Government of India withdrew that Bill. I presume that it was with a view to facilitating the levy of a death duty as recommended in this chapter by the Taxation Enquiry Committee that that Bill was introduced. The Legislative Assembly stoutly opposed the enactment of any Bill on the lines suggested in paragraph 377. In view of that do you think it is at all likely that the Central Government would be able to induce the Legislative Assembly to pass an Act for the levy of death duties of a character described in this Chapter XII, and you will observe also the great difficulties in regard to the Hindu families which you will find in paragraph 374, page 275 of the Taxation Enquiry Committee's Report in the case of Mitakshara joint families?—I am aware that there are considerable difficulties in imposing it. But I understand that the Government at that time was prepared with an Act of Succession duty which they hoped would meet with a minimum of obstruction.

*Sir Hari Singh Gour*: In their résumé of their recommendations, at the end of the book, as regards death duties, they point out that there would be a lot of difficulties and that also in many cases they will have to change the personal law of the people.

*The Chairman*: May I give you the reference? It is page 436 of the Todhunter Report. "A succession duty is impracticable in India, but a duty on the lines of the English Estate Duty, which may initially take the form of a transfer or mutation duty on death, is more practicable." (To *Sir Hari Singh Gour*): You take a hopeful view of the practicability and willingness of the Legislative Assembly to adopt a law on the matter? *Sir Hari Singh Gour*: Yes.

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## POONA.

Dated, 19th October, 1928.

Morning.

PRESENT:

ALL MEMBERS OF THE COMMISSION, AND OF THE CENTRAL AND THE BOMBAY PROVINCIAL COMMITTEES.

**Mr. F. C. GRIFFITH, C.S.I., O.B.E., Inspector-General of Police, and**  
**Mr. H. F. KNIGHT, I.C.S., Secretary to the Government of Bombay, Home Department.**

1. *The Chairman*: I think it might be well if we put a few questions to the Inspector-General of

Police first, Mr. Knight standing by, and then we will change over. Will that suit you both?—(*Mr. Griffith*): Yes.

2. Mr. F. C. Griffith, you are Inspector-General of



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[Continued.]

Police; for how long have you been in the Indian Police Service?—I am in my thirtieth year.

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5. How is the police force organised in the great city of Bombay?—It is an entirely separate entity there. It is a homogeneous force under a Commissioner of Police, who is himself directly responsible to Government.

6. Have you been Commissioner of Police in Bombay?—Yes.

7. I think the present Commissioner is Mr. Kelly?—Yes.

8. When you were Commissioner of Police for the City of Bombay, you would be responsible for the Bombay City force?—Yes.

9. Now, as Inspector-General of Police, you are responsible for the police of the rest of the Presidency?—Yes.

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10. Colonel Lane-Fox: \* \* \* what is your relation with the Commissioner of Police in Bombay?—He is in no way under my orders. We collaborate very closely, but he is not under my orders.

11. Can you tell us something about the organisation throughout the Presidency? What sort of strength have the police?—In the full Presidency, including Sind, 22,700.

12. How are they recruited, in the main?—We have in this Presidency two distinct branches, the armed branch and the unarmed branch. The unarmed branch is recruited from the people of the locality. We are bound very largely by the language question. The armed police, on the other hand, are recruited from all parts of India, and very largely from the army.

13. You have a large proportion of old soldiers?—Yes.

14. What sort of service would they have in the Army before they come to you?—It is very difficult to say now, because we have a number of men discharged after the war, after serving a short term.

15. What organisation have you got? What are your centres? There are 27 districts, are not there?—The district is the unit. Each district is in charge of a Superintendent of Police, who has under him one or more sub-divisional officers. They have under them sub-divisional inspectors, and the inspectors have under them a number of sub-inspectors, who are officers in charge of a police station. Each police station has under it one or more outposts in charge of a head constable.

16. The District Superintendent reports direct to you? He is next in the link to you?—There is bifurcation there. I am in no way responsible, under the Police Act, for the maintenance of law and order. It is my function, as I understand it, to see that the instrument whereby law and order are enforced is in a high state of efficiency; but the officer who is responsible for the preservation of law and order is the District Magistrate.

17. Then in case of trouble it is the District Magistrate who calls up any extra reserves?—Yes.

18. If there is trouble in one district and help is wanted from elsewhere, what would the District Magistrate do?—He communicates either with me or with the Superintendent of Police, who is his adjutant. If he communicates direct with me, I transfer men. Moreover, the Divisional Commissioner, who is not a policeman but a revenue officer, has authority to transfer men in his own division.

19. The Chairman: There are four divisions in this Presidency, I think?—Three, excluding Sind.

20. I notice, whether Sind should be separated or not, one tends to speak of the rest of the Province as the Presidency proper?—Yes.

21. I was speaking of the whole Presidency; in the whole Presidency there are four?—Yes, or five including the Bombay suburban district.

22. Colonel Lane-Fox: Who takes command? Who is in charge of the police that are brought in?

The District Magistrate?—The District Superintendent of Police is responsible, under the orders of the District Magistrate.

23. In case of a prosecution, do the police prosecute?—In connection with a riot?

24. In connection with any trouble?—Yes, the police prosecute.

25. Before the District Magistrate?—Not necessarily before the District Magistrate; before any magistrate. They prosecute before the magistrate having jurisdiction over the particular area.

26. I suppose you have three main sources of trouble; there may be communal trouble, there may be the question of a strike, or you may occasionally have trouble at elections?—I have never known of trouble at an election yet.

27. I suppose your main troubles are due to communal difficulties?—At present, yes.

28. Do you have to organise your police at all in connection with that? Do you find any difficulty in using certain branches or sections of the police to deal with particular communities?—We have. All our Parsi and Christian officers are used up already.

29. Do you find you can use only certain portions of your force in certain cases? If there is trouble either of a Muhammadan or Hindu character, have you to use certain sections of your force to deal with it?—No. The rank and file are policemen first and Hindus or Muhammadans afterwards.

30. The fact that so many troubles are due to that particular question makes the proposal to make law and order a transferred subject instead of a reserved one more difficult, because the main trouble which might imperil law and order would be communal?—Yes.

31. Therefore the Minister might sometimes be in a great difficulty, if it was a communal trouble which affected his own particular party?—Yes.

32. One sometimes hears statements made of corruption amongst the police, not only in this country but all over the world. Is that sort of allegation brought against the police in this Presidency?—Occasionally, yes.

33. Do you think there is any tendency for that sort of thing to increase?—I do not think so. I think the contrary is the case.

34. In the higher ranks, under the process of Indianisation, I suppose you will gradually get more Indians in?—Yes.

35. As Superintendents?—Yes.

36. Is that process going on rapidly with you?—Not very rapidly. We have got a certain percentage. We have worked up to the percentage for annual recruitment laid down by the Lee Commission in the superior cadre, and we are steadily recruiting to the Imperial cadre in accordance with the percentages laid down.

37. Have you got up to the full extent of that yet?—No.

38. On the whole, you are satisfied that the condition of the police is still as good as it was, and that corruption at any rate is not increasing?—What I meant to say about corruption was this, that for corruption there must be a giver and a receiver, and both are equally guilty in the eyes of the law. Now that people are waking up and are more inclined to resist anything in the nature of pressure from the police, I think the police themselves get far less than they did in the way of perquisites.

39. And also you probably hear more about it if there is any question of corruption?—Yes.

40. It is more widely known?—Yes.

41. Public opinion is having its effect on that?—I think so.

42. What is the actual position in the village? Who corresponds to what we call in England the village bobby?—There is a very effete system here of village police. There is a police patil who has certain powers under the village Police Act. He is not recruited by the police at all, but by the District



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Magistrate, and he has certain duties under the Act, particularly in regard to looking after criminal tribes and in reporting to the police at the outpost. In practice we found, when we tried in 1921-22, as a policy of retrenchment, to reduce the number of unarmed police and so put a stop to patrolling, the sub-inspectors of police became more or less blind, because the village police did not supply them with the information which we hoped they would.

43. They have to report to the Superintendent, but they are not directly recruited by the police?—They report to the sub-inspectors at the police station.

44. But they are not directly under the command of the sub-inspector, are they?—No, not in any way.

45. What sort of number would there be in the average village?—It depends on the size of the village, but in the average village there is one police patil, and he has under him three or four men—jagliers—who are a kind of village watchmen.

46. They are not in uniform?—No. They wear a belt.

47. Is there anything you would like to tell the Commission generally on the subject of the police force?—In what particular line?

48. On your own lines. Is there anything you would like to tell us?—I should like to mention our experience with regard to Indianisation, because I think it is important. We have got in the cadre five officers who are recruited from the provincial service; they are Indians who were selected and promoted. We find that the majority of them are perfectly capable of running a district. These men have all been tried in the fire, and they have been selected with great care because we feel confident they are men who are able to do what we require of them.

49. *The Chairman*: May I interrupt to ask you this. These five officers who have been promoted from the provincial service were doing what sort of work before?—They were doing the ordinary sub-divisional work. They started as inspectors or sub-inspectors and worked up through the ranks to become Deputy Superintendents of Police, exactly equal in rank, position and responsibility to an Assistant Superintendent of Police, i.e. a direct recruit from England.

50. What sort of offices do these five officers hold now?—Superintendents in charge of districts.

51. They are District Superintendents of Police?—Yes.

52. Out of 27 districts to-day, five are districts which are in charge of District Superintendents of Police promoted from the Provincial Service?—Yes.

53. And on the whole quite satisfactory?—Yes.

54. You were going on to tell us about the others, I suppose. You have 27 districts and you have so accounted for five?—The others are almost entirely recruited from home. At present we are in rather a curious position. Before the Lee Commission came out we had a large exodus of officers under the proportionate pension rules, and we had to make good that shortage and were compelled to take in a large number of officers from the Army, who are proving remarkably efficient.

55. I thought that besides the officers recruited by promotion from the provincial service, you might perhaps have some Indians directly recruited? I do not know whether you have?—Yes, we have. They are at the beginning of their service now.

56. They have not yet reached the higher rank?—No.

57. *Colonel Lane-Fox*: I take it they will go to the higher ranks if they prove themselves efficient?—Yes. The first one came in 1922.

58. What sort of period does it generally take for a man to rise to the position of District Superintendent?—It is generally assumed to be eight years, but it varies enormously.

59. You will not realise the value or otherwise of these men for several more years, anyhow?—It will take some time.

60. I should like to ask you about the distribution of the armed and unarmed forces. Does each district have its quota of so many armed and so many unarmed?—With the armed police we make provision for all guards and escorts to be supplied in a district, and we provide the full number, plus reliefs. Above that you have the safety reserve, and above that a 15 per cent. reserve for leave, training, sickness and so on.

61. I take it the armed are probably grouped in larger sections than the unarmed?—At head-quarters they are, yes. In the districts you generally have a strength of two head constables and six constables, or three head constables and nine constables, according to the size of the taluka head-quarters, but never more than that.

62. *The Chairman*: May I just ask this supplementary question? You said, I think, that your most serious difficulty which would arise from time to time would be traced, you thought, to communal feelings; is that so?—Yes.

63. You have had a very long experience in this Presidency in the police service; I wish you would give me your view. Do you think that from your (that is to say, the police) point of view, communal tension in this Presidency has increased or diminished since the Montagu Reforms?—At first there was an extraordinary rapprochement between the Hindus and the Muhammadans, about ten years ago, but I think the pendulum has now swung in the opposite direction. So far as this Presidency is concerned, particularly in the north, in Gujarat, we have had a great deal of communal tension, a great deal more than in the past. Whether that can be attributed in any sense to the Montagu Reforms I cannot say.

64. I am much obliged to you for correcting me there; I think you are quite right. It does not follow, of course, that because a particular development may have occurred in the last ten years it is due to something that happened ten years ago; that is perfectly fair, and I am glad you have corrected me. I wanted to know whether in the last ten years in fact from the police point of view the task—the burden—of keeping law and order in the face of communal strain was an increasing burden?—Yes, undoubtedly.

65. On the whole you think it is?—Yes.

66. Of course, it is by no means limited to Hindu-Muhammadan tension. I did not mention that, nor did you. You may have tension of another sort?—Yes.

67. You may have tension between Brahmins and non-Brahmins. I have another question. I suppose, of course, the duties of the police, in this and every other country, are to keep order; but the cause which requires them to be called in may be a cause which arises either on the transferred side or on the reserved side?—Yes.

68. To give an instance which occurred in the Punjab. There was a very serious situation which had to be dealt with by the police in a portion of the Punjab which originally arose from and was traced back to very strong feeling in a portion of the Sikh community on the subject of religious endowments. That, as you know, is a transferred subject. It seems, therefore, as though the police may very likely be required, whoever has the duty of giving them orders, in connection with transferred subjects just as much as reserved subjects?—Yes.

69. That must be so, of course?—Yes.

70. Then I want to ask you this. Besides the police force, armed and unarmed, there is, if occasion ever calls for it, the possibility of asking for military assistance?—Yes.

71. I imagine the police handle a situation by themselves without the military ever being called out if it can possibly be managed?—Yes.

72. That is certainly, if I may express an opinion, the proper view—that the military should never be brought in, if it can possibly be avoided, in matters which the police are concerned to keep straight. In

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your experience, when there is very severe tension or the prospect of a really bad row, what is it that is done to secure co-operation between the military and the police?—I have had considerable experience of working with the military in Bombay City in the industrial troubles of 1919 and 1920, when I was in charge there. I never abdicated my responsibility or functions once.

73. That was when you were Commissioner of Police in Bombay City?—Yes. I called in the military under the authority vested in me and we collaborated. Orders were issued by the military commanders, but only in consultation with the Commissioner of Police, and if it was necessary, if the situation had passed beyond our control, all we had to do was to say to the military officer, "Will you please assume control?" and he passed such orders as he thought necessary to restore order. That was done only twice, I think.

74. Those troubles were in Bombay City in 1919 and 1920?—Yes.

75. Now let us come to the rest of the Presidency, of which you are Inspector-General of Police. Have there, during your term as Inspector-General, been occasions when it has been thought necessary to secure military aid in connection with restoring internal order?—Only in Sholapur, where they called out in time of grave emergency the Volunteers—the A.F.I.

76. The volunteers?—Yes.

77. Here in Poona, for instance, there is a very considerable military station, as we know?—Yes.

78. I am glad to think it is not necessary, but I should like to understand what would be done if it was necessary. What is the system here?—The first thing we do if there is presage of trouble is to warn the military and ask them to stand by, and they do so.

79. That is to say, they have the men ready in barracks?—Yes, to move at the shortest notice. If the situation develops badly, those men may be moved to a more central position, and then finally they may be brought actually on to the scene of action. It has not been done during the eight years I have been Inspector-General.

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80. Then I would like you to tell me one other thing, so as to be clear and frank about it. Supposing that there is a sudden outburst of trouble of an intensely communal kind, what is your impression of the public feeling? Is the ordinary public here equally satisfied, if there is communal trouble, to have the police handled by an efficient police officer who is himself of either one conflicting party or the other, or does the public, in a case like that, show any desire to have the situation handled by an English policeman, not, I suggest, at all because the English policeman is any better man, but because he is neither of one side nor of the other, by race or religion. Is that how you find it?—I think that is so.

81. Tell us within your experience how you find it is?—Within the last month or two we have had a serious outbreak of communal disorder in a place called Godhra, in this Presidency. It so happens that the Superintendent of Police there is a Muhammadan. He is a very fine police officer, and also a very fine Muhammadan; he is known, in fact, as the Maulvi Sahib, which I think is rather significant, because it means that he is a man who is really a true follower of his own religion. There was straight away an outcry from the leading Hindus of that locality, demanding his immediate transfer, and they even went so far as to suggest that he himself had prompted the riot, although he was not there at the time, and a lot of loose statements were made which must have made his position extremely invidious; but he has been working very well indeed, and investigating the cases. We have given him the assistance of some officers who cannot be accused of communal bias one way or the other, both of whom are Parsis, just the same as we had to do at Broach for the actual investigation.

82. If I follow what you are telling us, which is certainly very interesting, the sort of difficulty you seem to sketch is not, of course, the difficulty that the Indian officer is not a perfectly upright and responsible person, but that his own circumstances expose him to suspicion and attack?—Yes, exactly.

83. I dare say these difficulties arise in a greater or less degree in every country where there is strong feeling. I suppose these difficulties really have to be got over by tact and good sense and firmness on your own part?—Partly.

84. You have to decide whether there is to be a transfer or what help can be given?—That is so.

85. *Major Attlee*: I want to ask about the personal relationship between the public and the police force, the attitude of the populace towards the police, which differs from country to country. In England we say, "If you want to know the time, ask a policeman." The attitude is rather a friendly one. What would you say as to the general attitude in this country in this respect?—It is hard to say. I think it varies in different parts and at different times.

86. Is the policeman regarded, for instance, merely as something rather external to the life of the place, to keep order, or would he be regarded as a sort of person you could turn to in time of trouble, to ask advice, and so on?—There is not the same feeling for a policeman in this country as there is for the policeman at home, that is perfectly certain. I think that the people regard him in this way; they abuse him, and yet if he is removed they want him back. I cannot put it more clearly than that.

87. A necessary evil?—A necessary evil, yes.

88. Could you just give me what the proportion in a district of the armed police is to the unarmed?—Very roughly, I think, about 1 to 3. Twenty-five per cent. I should say are armed, possibly 30 to 35 per cent. It varies.

89. In this Presidency does the local police officer conduct prosecutions before the Magistrate himself?—We have got a special prosecuting sergeant. The investigating officer is not allowed by the law to prosecute, so we have a number of prosecuting officers who are trained pleaders, who join as prosecutors, and confine themselves entirely to prosecuting important cases.

90. What is the reason for their being in the police force? To our idea, a public prosecutor is someone who is entirely apart from the police.—The public prosecutor takes up the more important cases. Anything of real importance is taken up by the public prosecutor; but the police prosecutors deal with the smaller cases.

91. What I wanted to get was, they are enrolled policemen under the discipline of the police force?—They are not enrolled policemen, no; they are in the same way as the clerical establishment is a part of the service. They have no powers under the Police Act. They are not police officers. They do not wear uniform, and they have, as I say, no powers under the Police Act. They are simply prosecutors, but for administrative convenience they are placed under the orders of the Superintendent of Police.

92. Has it ever been suggested that they could more suitably be under the District Magistrate?—No.

93. You were pointing out your own position as a policeman?—Yes.

94. That you were responsible for the discipline of the force?—Yes.

95. But the actual utilisation of it, I gather, is in the hands of the District Magistrate?—The District Magistrate is responsible for law and order, but he interferes in no detail.

96. I cannot quite make out why those prosecuting officers should be still under the police force. I should have thought it was rather invidious from the public point of view.—It has never been otherwise since they were first enlisted in 1909, and I have never heard the point raised before. I have not considered any possible objection.

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*The Chairman* : Major Attlee will have it in mind, of course, that a similar situation does exist in England. I was asking Colonel Lane-Fox about it from the Quarter Sessions point of view. I think the small cases in the country in England are very often cases where the Inspector of Police is the prosecutor, and more or less he actually does it himself; and, as we know, of course, in London there is a Solicitor to the Metropolitan Police who does the prosecution. I follow the point you are putting, but I did not want the impression to be conveyed that there is nothing in the least like it in England, because I think there is.

*Major Attlee* : The point I wanted to make was that they are regular officers who have a regular duty.

97. *Lord Burnham* : May I ask you one or two questions on a matter of principle which has long been the subject of discussion in this country, and which is alluded to in Chapter VII of the Bombay Government's handbook,\* at page 282, under "Separation of Executive and Judicial Functions," which, it says, is of long standing. On page 284 the Royal Commission on Decentralisation in 1909 is said to have stated "that the control of the District Magistrate over the police for general purposes should be absolute, and that there should be no room for doubt as to his full responsibility for the criminal administration of the district." That rule is observed, I understand from you, now as then?—Yes, unquestionably.

98. Is there any difficulty in the working of that rule as between you, in executive charge of the police, and the District Magistrate?—I have never had personally any friction, but the friction is much more likely to occur in the district itself. It sometimes does occur.

99. Does the friction interfere with the proper execution of the law? Is there enough friction, I should rather put it, to interfere with that?—No, it is stopped before that can happen, by a transfer if necessary. It is very rare. I can only call to mind one case in recent years.

100. Then, on the whole—I can only ask from the point of view of your personal experience in the practical working of the system—there is nothing to give greater point to those who advocate the separation of judicial and executive functions in these matters?—there is no more point now than there was forty or fifty years ago?—I think not.

101. If the District Magistrate is responsible to the extent that is laid down, would he be the authority to decide what action should be taken, where communal disturbances or labour disputes are in progress?—He would undoubtedly fix the policy, and probably leave it to his superintendent of police to carry it out.

102. But the District Superintendent must have his authority to act?—Not necessarily. He has certain authority under the Act. He has got certain powers as a police officer, and certain duties.

103. In cases of emergency?—In cases of emergency and so on, but in such cases as the issuing of preventive orders, and things of that description, the District Magistrate would undoubtedly be the officer to issue the order.

104. You spoke of the danger of mutual suspicion in communal cases, where the District Superintendent or police officer belonged to one or other of the contending factions. Does that apply to the District Magistrate as well?—It undoubtedly would.

105. But in your experience—because that is really what I want to get at—have such cases arisen?—I cannot call to mind any such cases.

106. Then the difficulties of communal jealousy or communal suspicion are confined to the executive officers of police?—I do not think I quite follow.

107. I understood you to say that there was a difficulty of mutual suspicion rather than prejudice in the case of officers of police belonging to one of the communities engaged in conflict, and I went on

to ask you whether that applied to the Magistrate, and I understand you to say no, you know of no such cases.—I did not quite grasp your meaning. I rather understood you to mean in the event of communal disturbances.

108. Yes, that is so. You do not know of any case in which there has been difficulty owing to the Magistrate belonging to one side or other of the warring factions?—The District Magistrate?

109. Yes, the District Magistrate.—It so happens that we have had the good fortune not to have communal trouble where there has been a District Magistrate who has been of the same or another caste to the policeman.

110. I am not quite certain whether you refer, before you take action, to the Member of Council in charge of your reserved department, or whether you have full discretion to act always for yourself?—In what connection?

111. In regard to any action of the police in communal disorders, or possibly it might be in labour troubles?—I would certainly act on my own authority, but keep very closely in touch with my Member.

112. He is aware of what is being done?—He is kept aware, very closely aware.

\* \* \* \* \*

113. *Lord Strathcona* : I want to put more precisely the question asked by our Chairman and by Lord Burnham. Supposing you want to call out the military, or you want military assistance, what is the precise channel through which you do that?—That depends where you are. In Bombay City I used to go direct to the Brigade Commander.

114. Do you do this on your own authority, or do you consult the Member of the Home Department before you do so?—In Bombay City I do it direct. In the Presidency it is no concern of mine.

115. But in every case the police officer on the spot goes direct to the military without consulting the Department?—I should think in a district it is impossible to lay down any definite rule, because circumstances may necessitate immediate action; but if the District Magistrate were on the spot and available, I am certain that no superintendent of police would think of calling the troops without first obtaining his approval and consent.

116. What it comes to, then, is that there is no one to say to you, "This is not an occasion on which you should call out troops." You are the arbiter?—Yes. The civil power—that is how it is phrased—may call for military assistance.

117. So the question of whether it is a transferred department or not does not affect your position as far as calling out the military is concerned, if you think it is necessary?—No, not at all.

118. *The Chairman* : I would like you to pursue it a little bit, Lord Strathcona. Imagine for the moment that law and order was under a Minister, but that the British Army was not transferred, but remained as it is now. Then what would be involved would be, would it not, that the District Superintendent of Police desiring military assistance, himself belonging to a transferred department, would call on the military, and according to practice now does the military respond to the call without question?—Yes.

119. And do you say—I can well understand it—that in times of crisis, when time matters, he may have to do it without anybody else being consulted?—Yes.

120. *Colonel Lane-Fox* : You told us that the District Magistrate was the person from whom the District Superintendent would take orders in case of trouble?—Yes.

121. Supposing there was a case in which the District Magistrate thoroughly lost his head, and the District Superintendent was not satisfied at all, has he anyone to appeal to? Could he appeal to you?—He could not appeal to me, but if the trouble were big enough to attract the Commissioner, and he happened to be on the spot, he would go direct to him.



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122. *Sardar Mujumdar*: Are you aware of the troubles, though on a small scale, that have taken place in certain districts of the Presidency since 1920 owing to the Brahmin and non-Brahmin feeling?—Yes.

\* \* \* \* \*

124. *Khan Bahadur S. N. Bhutto*: Do you favour the transfer of law and order?—Personally, I do not.

125. On what consideration? It would only make the position of a Minister difficult, or do you think at the same time you will not be able to maintain the efficiency of the police?—I do not fear that. What I fear is trouble afterwards. I would envisage a situation where the Minister was elected and sent to the House by the constituency where the riot took place. He is, we will say for the sake of argument, a member of one of the two conflicting communities. No policeman would dare to act if he had doubts as to what might happen to him afterwards when the time came to sweep up the pieces. That is why, in broad outline, I think it would be extremely dangerous to transfer law and order at present.

126. At present you may have to deal, in the course of your own duties, with both departments, transferred as well as reserved, but you do not mind that and you do not hesitate to do your duty independently because you have not to deal with a Minister at all?—Yes.

127. You have nothing to do with the Minister?—I am not under his orders in any way.

128. You say that owing to the growth of public opinion in the country corruption is on the decrease. That may be so in areas where public opinion has improved or education has progressed, but in most of the country, in the mofussils, as you well know, the people are not educated. Do you consider any improvement has taken place there as well?—I think there is an improvement everywhere, even in Sind.

129. *Dr. Ambedkar*: You stated just now that the police force of the Bombay Presidency is regarded by the populace as a necessary evil; that there is not much love lost between them. That is the effect of what you stated, I think. You said that at home the policeman was looked on as a friend, but that here he was not?—That is not quite what I meant to convey. I was talking about the view of a citizen towards an individual policeman.

130. On the whole, was not that your view?—I was talking about the relationship between an individual policeman and the people he had to protect, and not the force as a whole or a compact body of men. I did not mean that.

131. What is your opinion as regards that—the police force as a whole?—If one ever closes a police station or an outpost there is a strong popular outcry.

132. I do not mean with reference to any particular occasion of disturbances; I mean generally?—I am not talking about disturbances. In the retrenchment of 1922 we closed a number of outposts and police stations, and in almost every instance that closure was followed by petitions protesting against it signed by everyone in the locality. I think that is gratifying.

133. What I wanted to get at was the attitude of the population towards the police force?—I think that is the answer.

134. That they like them?—They want them.

135. Do you employ the depressed classes in your police department?—In very small numbers only.

136. You do not admit them to the Nasik police training school?—I believe that one has been admitted.

137. Who is that one?—I could not tell you.

138. When was it?—I could not tell you.

139. Can you say why you admit them only in such small numbers?—Because there are great practical difficulties in the way of employing members of the depressed classes as executive police officers.

140. What are the difficulties?—A Brahmin would

object very strongly to having his house searched by a Mahar. That is a practical difficulty.

141. On account of untouchability?—Exactly.

142. That works as a bar for the employment of these people in the police force?—In effect it does.

143. *Mr. Cadogan*: Are there none at all?—Very few.

*The Chairman*: Dr. Ambedkar, do you think it is correct to say a Brahmin would object to having his house searched by a depressed class police officer?

*Dr. Ambedkar*: That is what the witness says.

*The Chairman*: Yes, but do you think so?

*Dr. Ambedkar*: I do not know, if a man went there in his police capacity.

*The Chairman*: You must remember a man's house may be searched although he may be quite innocent. The police may have to do their duty, even though the result may show their suspicions to have been unfounded; so I am not speaking of a guilty man, but of an innocent one.

*Dr. Ambedkar*: I suppose from the answer given that both the innocent and the guilty would object.

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144. *Dr. Ambedkar*: The objection is to the personality. With respect to the village police system, you say there is a village police patil who generally looks after the police duties of the village. He is an hereditary officer?—In some parts of the country.

145. Except in Gujarat. Do you think this hereditary system is conducive to law and order in the village?—I do not think it has much effect one way or the other.

146. Do not you think a police officer belonging to one particular community resident in the village for generations is more inclined to favour an individual belonging to his village than to help law and order?—Yes, possibly that may be so.

147. On the whole, you would admit it is not a system conducive to law and order? There is more communalism in the man?—They are not charged with the duty of maintaining law and order so much as with giving information.

148. I will not say law and order, but giving information to the police. That is one of their duties?—Actually I think they do pick and choose as to what information they are going to give.

*Lord Burnham*: What is meant by the system?

149. *Dr. Ambedkar*: The system is that the village police patil is an hereditary man. Certain families have an hereditary right to officiate as police patils, and the District Magistrate is restricted to certain families which have that hereditary right. (*To the Witness*): With respect to the suspicion you have stated exists on the part of one community towards a police officer belonging to another community (you instanced the riots at Godhra), would not much of the difficulty be solved if the department had a rule that the police officer in any particular locality should usually belong to the minority community? Are you aware that in the constitutions of most of the new States created in Europe at the time of the peace treaties there is a provision that the police officer in a particular locality shall usually belong to the minority. If you observed that rule in the administration of the police here, would not most of the trouble vanish? The police officer is there to inspire confidence, and that confidence is needed more by the minority than the majority?—You would practically confine yourself to promoting no one but Muhammadans and Parsis.

*Dr. Ambedkar*: In a locality where Muhammadans were in a minority you might station a police officer who belonged to that particular community; at Godhra you might put an officer who was a Hindu. It is the minority which fears the tyranny of the majority, and you can obviate that by making such postings that the minority may have assistance more than the majority. In the new constitutions drafted for Czechoslovakia and some of the new countries of Europe after the peace treaties, these things were

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included by way of guarantees. I am simply throwing it out as a suggestion.

*The Chairman*: I quite follow. Would you mind ascertaining for me whether in distributing the individuals of the police force the Inspector-General does consider the distribution from the point of view of similarity of race or religion?

150. *Dr. Ambedkar*: Do you do that?—Yes.

151. If you do that, this difficulty will not arise very much?—The Superintendent of Police you mention is in charge of a large district in which undoubtedly Hindus predominate. Why should you pick on Godhra itself and say "Let us protect the minority here and let the majority in the rest of the district look after itself?"

152. Because there is more danger of riots taking place in a concentrated area than in a village where the population is more scattered. Communal tension is greater in cities than elsewhere, and I think you might have that prominently in view in making your distribution?—The quelling of communal disorders is a very small part of a police officer's duties, or ought to be at all events.

153. Although you are acting under the authority of the District Magistrate, the execution is certainly in your hands?—In this particular case the riot was finished in half an hour, and the rest was just talk.

*Dr. Ambedkar*: True, but you might get some provision as to what is coming. I am just putting this as a suggestion.

*The Chairman (to Dr. Ambedkar)*: I am very interested in this, and perhaps you will not mind my making a comment. What I should like to follow is your own view about it; I do not know whether your colleagues share it. I am listening with great interest to this, because I am interested to know whether it is the view of yourself and your colleagues that if a policeman is an Indian it may be assumed that he will favour his own community. That seems to be the effect of those questions.

*Dr. Ambedkar*: It is an assumption.

*The Chairman*: But I am sure you are dealing with the facts as you think them to be, and of course that is very material if that is so. No one, I think, suggests the English policeman favours a particular community deliberately, though he may make mistakes, like everybody else; he has the advantage that he happens to be a neutral person, and sometimes he may be helpful in that way. Your question rather suggests, you know, that you hold the view that if the policeman is an Indian you would assume that he would favour his own community.

*Dr. Ambedkar*: His natural inclination would be that way, or at least the population believe it.

154. *Khan Saheb Abdul Latif*: What is the proportion of Muhammadans and Hindus in the higher grades of the service?—You mean in the superior cadre of the police?

155. Yes?—Out of the 5, we have 2 Muhammadans, 1 Parsi, and 2 Christians.

156. *The Chairman*: Would you make it quite clear to whom you are referring?—To the 5 officers who are Superintendents of Police.

157. Of your 27 District Superintendents of Police, I think you told us 5 were Indian officers?—Yes.

158. And the answer is that of those 5, 2 are Muhammadans?—Yes, 2 Muhammadans, 1 Parsi and 2 Indian Christians—Anglo-Indians.

159. *Khan Saheb Abdul Latif*: In cases of communal tension, are not complaints often made about such Indian police officials siding with persons of their community?—They are invariably made by the opposite community.

160. Do you think that the present staff of police is sufficient to maintain law and order?—It has been, so far; I will not prophesy.

161. Is not it true that the C.I. Department has not inspired confidence in the minds of the public, and, rightly or wrongly, are not complaints often made against that department by the public?—All I can say is that the demands on the C.I.D. are one hundred times more than they can supply. Out of

every hundred applications for assistance from the C.I.D. we are able to satisfy only one. That rather goes to prove the opposite.

162. Are not officers of the C.I.D. drawn from the deputy superintendents?—Yes, they are officers picked out for their investigating ability.

163. Do such officers receive any special training?—It is their life's training. They qualify in the school of experience, and when they become outstanding investigating officers they are taken into the C.I.D.

164. Are there communal troubles going on between the touchable and untouchable Hindus?—No, not to my knowledge.

165. Not in your Presidency, at Mahad?—Very small, if anything.

166. *Rao Saheb Patil*: What will be, in your opinion, the appropriate time for transferring law and order, and the police in particular, to popular control under a Minister?—I cannot venture any opinion.

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169. *Rao Saheb Patil*: I want to know your difficulty about transferring your department to popular control. \* \* \* —The reason I gave before was that I did not think it right that a police officer should be placed under the orders of a Minister who might have a great deal of pressure brought to bear upon him which might threaten his very office, his emoluments, his whole political career. The easiest thing in the world for him to do would be to sacrifice the police officer in order to maintain his position, and, frankly, I do not feel that the time has come when we should be absolutely safe and certain that that would never happen; and until I do have that feeling myself I should always be antagonistic to the transfer of the police department to a Minister who is responsible to the electorate.

170. *The Chairman*: Of course, I think it ought to be made entirely clear that in the answer you are giving you are stating your personal view?—Yes.

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175. *Syed Miran Muhammad Shah*: Can you tell me if this usual suspicion of the superior officers is a transitory phase in Indian life, or whether it is inherent in the Indian people that they will always suspect each other?—Well, that is a question of evolution.

176. You think that it is a transitory phase owing to the particular tension between the communities at this time?—Yes.

177. I am sure you must have officers who are enjoying the confidence of both communities?—Yes.

178. Have you any experience of receiving complaints against European officers also in times of communal tension being partial to one side or the other?—Yes, we have had.

179. Do you consider your Indian officials in the higher categories to be quite capable of administering the area under their control?—Yes.

180. Is it a fact that you did carry on retrenchment in this Presidency a few years back?—We have been doing it consistently for the past seven years.

181. And your policy has been to abolish subordinate posts and increase the higher posts?—No.

182. For instance, you have been creating more inspectors' posts, and you have been organising sub-divisions, sub-divisional officers, deputy-superintendents of police, and so forth. You have been doing that of late?—That has been a part of the policy, yes—not of late; it has been very long-standing.

183. But you have been pursuing this policy of increasing the higher posts?—I do not know that we have increased the higher posts.

184. Do you mean to say adjusting the posts in such a way as to increase the higher posts and decrease the subordinate posts?—That rather goes behind the motive. The motive is that the only part of the budget which will yield a crop which is

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worth garnering is what we call district executive force, and it is on the men that all the money is spent and it is the men that can be spared most easily, and that is why we have been compelled to reduce the number of men.

185. Do not you think crime increases in a particular locality on account of the reduction of police force?—May I tell you what the system followed was? This cut was forced upon us by the Council.

186. Which cut do you mean?—A heavy cut of 60 lakhs was made. The whole of it did not come on the police, but the Council refused to pass a certain Bill of which the police had to bear a certain portion of the burden. I was told I had to reduce a certain number of men, and I said I could not do it. I was told I had to do it. So the only way I could do it was, supposing I had to reduce 200 men in a district, to reduce 250 unarmed police and increase 50 armed. In other words, we were not in such a good position for the investigation of crime, but our bludgeon arm was stronger. It was retrograde.

187. What pecuniary reduction has resulted from this reduction?—We satisfied our orders. We were told to save a certain amount, and we did so.

188. Have you received any complaints of corruption against police officers?—Yes, generally anonymous.

189. Who inquires into them?—We do not inquire into anonymous applications as a rule, unless there is something in them.

190. Do you levy any police tax in the municipal areas in the Presidency?—I do not know about that. I do not think so.

191. *Sir Sankaran Nair*: Are there two registers in this Presidency, one in the police station and the other in the village? I thought I understood you to say so?—I do not think I have referred to that at all to-day.

192. We will not go into a discussion, but is that so in fact?—I do not think I referred to registers.

193. Are there two registers kept of all characters, one in the police station and the other in the village?—Yes.

194. Are those registers open to inspection by officers who may afterwards have to try cases relating to any one of them?—I think a sub-divisional inspector has authority to look at them.

195. To inspect them?—Yes.

196. Both of them?—I imagine so. I think so.

197. Both the register kept at the police station and the register kept at the village office?—Not at the police station. He would look at the other register.

198. Has the Sub-Divisional Magistrate or the District Magistrate no power to inspect the one kept at the police office?—The District Magistrate has, but not the Sub-Divisional Magistrate.

199. Both of them have the power, and the other magistrates also, to inspect the register kept at the village office?—Yes.

200. They may afterwards have to deal with criminal cases relating to any person mentioned in those registers?—It is quite possible.

201. *Sir Hari Singh Gour*: I will divide my question into two parts, the preventive action of the police and the punitive action of the police. I am now asking you with regard to the preventive action of the police. You have said that there has grown up a communal tension during the last few years, synchronising with though not necessarily in consequence of the Montagu-Chelmsford Reforms?—Yes.

202. Can you give me any special reason why there has been this increased tension during the last ten years?—I can only suggest that they tried to force the pace in the other direction.

203. In what direction?—Certain leaders tried to force an *entente* before the people were ready to receive it.

203. Consequently there was a political basis for this growing tension?—Yes.

205. That is to say, each community wanted to grasp as much as possible of the power which, in the

near future, they thought might be within their grasp?—I do not know about power. It was a political demonstration on a religious basis.

206. Yes, the demonstration precedes the actual thing?—Yes.

207. The only reason you can give, I understand, therefore, is that these disturbances are due to political discontent created in the country?—No, I would not say that. You have got perennial factors. You have got temples, you have got mosques, you have got processions.

208. The temples, mosques and processions, are they not merely symptoms of a deep underlying discontent due to other causes?—I think it is purely religious myself.

209. You think the religious sense of the people has become bigoted?—I do not say that, but I will deal with a concrete question. The situation at Godhra is entirely due, in my opinion, to the rabid writings of a section of the Press. I would not say that is a religious cause.

210. And if you were to trace the genesis of the communal tension, what would you come back to? Would it not be political in origin?—It is very difficult to draw the line where religion ends and politics begin.

211. But one may be a means to the other?—Possibly.

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212. *Sir Hari Singh Gour*: \* \* \* Do you think you would enlist the further co-operation of the public in favour of the police if you had, for instance, such a thing as civic guards?—Civic guards would have to be under proper control, of course.

213. They would be a sort of second line, of course?—I doubt if it would have any effect upon the popularity or otherwise of the police *per se*.

214. Would it be a help to the police in the enforcement of law and order?—It is very difficult to say.

215. Now a question has been asked you, why do you not enlist in larger numbers members of the depressed class in your police force?—Yes.

216. Now I put it to you as a very experienced officer, if you had a larger number of members of the depressed class enlisted in your police force, and turned them out on the higher class of people for either investigation or house searches, or the like, do you think that would not add to your difficulties when you found the whole public opinion against you?—Yes, that is my view.

217. It would seriously diminish the police efficiency?—Yes, it would add to our difficulties.

218. It would increase the popular hostility towards the police?—Yes.

219. That they are employing the menial classes for the purpose of sending them into our houses, polluting our homes, and putting them in a position of authority over us?—Yes, that is the line that is taken.

220. Consequently you, as a police officer, would look to the efficiency first, and communal claims afterwards?—Yes.

221. Now it has been suggested to you that, following the analogy of other countries, which may or may not apply to this country, your police officers should invariably be drawn from the minor communities. Would it not make the police force less fluid?—I consider that to be a completely unpractical proposition.

222. And it will again increase your difficulties?—Yes.

223. You would be openly setting up a minority community against the majority community?—Yes.

224. And your business is not merely preventive but punitive. That takes me to the next point, the detection of crime. Do you expect that you would be more successful in securing the detection of crime if you enlisted in the force, or rather posted in different places, only members of the minority communities, who would be regarded as there on

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purpose to keep in check the majority government ?  
—It would be disastrous.

225. I just want to ask you two more questions. I am now dealing with the next point, the question about the punitive action, the detection of crime. What percentage of crime in your Presidency is brought to book?—I am afraid I have not got statistics.

226. It is a very small percentage all over India ?  
—Yes.

227. That is to say that the bulk of the crime goes unpunished?—A good deal of reported crime goes unpunished.

228. I am speaking of that, of course. Now would you suggest any improvement in the administration of the police either in the detection or in the trial of cases, that would bring a larger number of criminals to justice?—Yes, we want money; that is all we want.

229. What you really want is to improve the efficiency of the police?—Yes.

230. And for that purpose you want more C.I.D. officers?—We want more money: we want to train our men better; and above all we want to cut out the law's delays, as far as possible.

231. Supposing we gave you more money, how would you act?—We have got several schemes only awaiting funds—a detective training school, increased numbers. We have been greatly handicapped in producing good results by our men being diverted from their ordinary functions and put on to duties which have no concern whatever with the prevention and detection of crime.

232. For instance?—Political agitation, for one. Communal unrest entirely paralyses the investigation of crime. In a place like Ahmedabad we have something like 150 men employed on traffic duty, when the allocation statement does not include a single man for that duty.

233. Your point of view is that the growth of communalism in the country is the canker worm of civil and political life in this country; it is destroying efficiency, it is making one set of people fight against the other, and increases your task and your burden ?  
—Yes.

234. That is your point?—Yes.

235. You say you would not allow law and order to be placed in charge of an Indian Minister?—Yes.

236. I suppose you have no objection to law and order being placed in charge of an Indian Member ?  
—No.

237. As a matter of fact you have got in your Presidency law and order in charge of an Indian Member?—No.

238. Has your Home Member never been an Indian?—Never to my knowledge.

239. At any rate there have been such cases. There are cases where law and order has been entrusted to an Indian Member, for instance, in Madras, the United Provinces and the Central Provinces?—Yes.

240. With the experience you have of working under an Indian Member you have no objection to law and order being administered by an Indian Member?—I should like to make it perfectly clear that my objection is not to the Indian, but to his being dependent upon popular vote. That is the difference. It is not anything racial, and I should like to make this point very clear.

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242. May I draw your attention to a statement in the Muddiman Report? It is stated there on page 10: "On the transferred side the experience gained has not been sufficient to afford confirmation of any feeling that deterioration has taken place." That is to say, in common language, that so far as the transferred side is concerned, there is no evidence that the Ministers have not acquitted themselves well. Now supposing that this view equally applies to the Indian Ministers in charge of law and order, then would you have any objection whatever to

placing law and order in charge of the Indian Ministers? Supposing they do as well in the reserved field as they have done in the transferred field, then would you have any objection to placing law and order in charge of the Indian Minister?—I shall have no objection in the reserved field.

243. You would have no objection to the Indian Ministers administering the reserved subjects if they do as well as they have done in the transferred field?—If they are reserved, I have no objection.

244. I do not wish to raise the general question with regard to the separation of the executive and judicial functions. But one question I wish to ask and that is, is there any popular feeling against the District Magistrate being the head of the Police?—There is.

245. As a matter of fact, do you see any reason why the District Superintendent of Police should be regarded as an Assistant to the District Magistrate?—You cannot help it.

246. Would you not trust the District Superintendent to work on his own initiative?—But I do think it is necessary to have one head of the unit whatever it may be.

247. Supposing we have the Superintendent of Police as the head of the unit, would you have any objection?—Personally I have no objection.

248. Nor do you see any objection to it?—He will have to have very much increased powers. You will have to give him more powers, taking away some of them from the District Magistrate, and he would in effect be the District Magistrate.

249. Supposing we give the head of the Police the powers which are at present possessed by the District Magistrate and make him the head of the unit so far as the preservation of law and order and detection of crime are concerned, that would be quite satisfactory?—Yes, perfectly.

250. *Sir Arthur Froom*: My colleague, Sir Hari Singh Gour, referred to the Muddiman Committee Report. Is it your recollection that the Muddiman Committee recommended that law and order should not be transferred?—Yes.

*The Chairman*: Sir Hari Singh Gour seems to be under a misapprehension. The portion of the report from which he has quoted gives a summary of the views of the various Governments put forward before the Committee. They were not the pronouncements of the Muddiman Committee at all and the particular sentence he has read out does not even represent the views of the Bombay Government. Paragraph 15 on page 10 from which he has read is the "Continuation of the views of the Punjab Government," and is a continuation of paragraph 14 which is the beginning of the summary of the views of the Punjab Government. Whatever may be the right view, it cannot be said that the sentence he has read represents any part of the views of the Muddiman Committee. It is a misapprehension.

251. *Sir Arthur Froom*: I think the police department publishes its administration report?—Yes.

252. My recollection is that it gives accounts of the actions of the police officers?—Yes.

253. Of the Indian police officers also?—Yes.

254. It states that they have been rewarded for their gallantry, and rightly so. But what I am trying to get at is this. In your force the Indian officers, inspectors, etc., could be regarded as a very gallant band?—Yes, undoubtedly.

255. They exhibit conspicuous gallantry in case of dacoity and so forth?—That is so.

256. I suppose promotion cannot be guaranteed on gallantry alone but administrative capacity also is taken into consideration?—Yes.

257. A man may be a gallant fellow and yet he may not have such administrative qualities as other members of the force?—Yes.

258. Do you consider the present Bombay police as a whole to be as efficient as it was ten or fifteen or twenty years ago?—I think the efficiency is greater but the effect is less.

259. You gave an answer to Sir Hari Singh Gour



on a question which I also intended to put, with regard to the transfer of law and order, and you gave us your opinion. May I ask you whether there is a general feeling in the police force which coincides with your opinion?—Yes, a very strong opinion throughout the force.

260. In all the executive ranks?—Certainly.

261. I suppose you have got the C.I.D. in the Bombay Presidency?—Yes, one in Karachi which deals with Sind, one in Bombay confined to cases in the Bombay City, and another in Poona which administers the rest of the Presidency.

262. Is there any sort of Imperial C.I.D. force?—Yes; it is not a C.I.D. but it is a bureau collecting and disseminating opinion.

263. Would you consider that this Imperial bureau of the C.I.D. is another reason for not transferring law and order?—It might bear slightly on the point. You could not transfer that.

264. You could not transfer that and you will have to divide the police force?—It is an added difficulty.

265. *Dr. Suhrawardy*: Is it not a fact that the period of reforms, 1920–28, roughly corresponds with the period when the gentle apostles of non-violence and the fiery preachers of the Khilafat were going about the country preaching their doctrines, I mean the non-co-operation movement?—Yes, it coincided.

266. You said in reply to *Dr. Gour* that one of the causes of the intensification of communal tension is the illusion of the political leaders of the Hindu and Muslim communities?—Yes.

267. May I take it that you mean that the intensification of communal tension is due to the reaction which has followed that illusion?—I think it is a contributory cause.

268. You have in my opinion rightly stated that the temples and mosques and processions existed prior to the Montagu-Chelmsford reforms. May I mention one other factor, namely, Bakr-Id, the annual sacrifice during Bakr-Id? May I ask you if there were communal riots due to music before mosques or Bakr-Id prior to the introduction of the Montagu-Chelmsford reforms in this Presidency?—There must have been. I cannot recollect any; it is ten years ago.

269. May I take it that you do not attribute the scramble for appointments due to the Indianisation of services and communal representation as the main cause for the increase of communal tension?—No; I have never thought that.

270. If I am not mistaken, you said in reply to *Lord Burnham* that the communal prejudice against the District Magistrate is not so great as against police officials?—I do not remember having said that.

271. I thought that you said something to that effect?—I said that I think we are fortunate in that that we have not had any disorder at a place where we had an Indian Magistrate and an Indian D.S.P.

272. Is it not a fact that in your presidency there are Indian Hindu magistrates and Muhammadan accused in criminal cases and vice versa where applications are made for the transfer of the case under section 526 of the Criminal Procedure Code on the ground that the accused have reasonable apprehension that they will not have fair trial?—There have been cases; but I cannot speak from personal experience.

*The Chairman*: I do not quite understand what is the nature of the apprehension in such cases as a rule.

*Dr. Suhrawardy*: The apprehension is the lack of confidence; it is the communal bias.

*The Chairman*: Does it mean lack of confidence in the magistrate?

*Dr. Suhrawardy*: Yes.

*The Chairman*: Is it a ground for the transfer of the case that there is a lack of confidence in the District Magistrate of the district where the troubles take place?

*Dr. Suhrawardy*: It is so.

273. You said that the charges of corruption

against the police are not on the increase, and if I am not mistaken you said that corruption implies two persons, the giver and the receiver?—Yes.

274. Is the decline due to the growth of public opinion or to the rise in the police morality, or both?—It is both, I should say.

275. *Rao Bahadur Rajah*: You are an experienced police officer. You said that you as a police officer would look to efficiency first?—My primary object would be to see to efficiency.

276. I suppose you know that the members of the depressed classes have proved themselves as very good soldiers in the army?—Yes.

277. Therefore it naturally follows that if they are appointed as policemen they would be an efficient police force?—It does not follow at all. It is a different type of duty entirely.

278. You said that in cases of emergency you requisition military force, and I suppose that in the military force there are both members of the depressed classes and caste men?—I dare say, yes.

279. And you do not requisition the services of the caste men alone during the riots?—That consideration has never arisen. The consideration of untouchability does not exist. There is nothing in the nature of house-to-house search in such cases.

280. So in such cases where there is need for house-to-house search you do not requisition their services?—It is a possible source of complaint.

281. You know the Queen's Proclamation states that no subject of Her Majesty shall by reason of colour or caste or creed be debarred from any post to which he is entitled by his ability, honesty and integrity to aspire?—Efficiency depends very largely upon the degree to which the people of the other castes would allow him to be efficient.

282. I should like to know whether when a man proves himself to be a good soldier, he cannot prove himself as a good policeman also?—You cannot compare them, because the two duties are so different.

\* \* \* \* \*

283. Do you think, *Mr. Griffith*, that the present proportion of European and Indian officers in the higher grades if disturbed would affect the efficiency of the police?—Not if it is done gradually and as we get suitable material.

289. Can you please tell me if in your Presidency you take people from other provinces into your department? That is, do you recruit people from other provinces?—Yes.

290. Mostly from what province?—Mostly from our own province and we get some from the United Provinces and some from the Punjab. There are a number of sub-inspectors in Sind coming from the Punjab. An officer has got to be resident in Bombay for three years before he is eligible for service.

291. Do you think you can effectively protect the minorities in times of disturbance, especially in isolated places?—It is very difficult.

292. But it is your duty to protect them. What means do you suggest for protecting them?—I thought you meant protection to individuals. I was thinking, for instance, of picketing in labour unrest. That is a very difficult thing to deal with; it is a case in point.

293. Do you think that within your experience you have come across cases in which the minorities are absolutely at the mercy of the majority community?—They are to a very great extent, certainly.

294. Does the police force have a large proportion of educated men?—I forget what the proportion is.

295. There are some educated constables?—Yes. We take no one who is not educated to a certain extent, say, the fourth standard.

296. *Sardar Shrivdev Singh Uberoi*: I would invite your attention to page 240 of the memorandum submitted by the Government of Bombay.\* It refers to the Indianisation of the police service. It is stated there: "The Lee Commission recommended that

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"for every 100 recruits 50 should be Europeans. 30 should be Indians directly recruited, and the remaining 20 should be recruited by promotion from the provincial service. They anticipated that a cadre of 50-50 would be reached in about twenty-five years." What you have said just now is this, that five men who are holding charge as D.S.P.'s in your Presidency have been promoted from the Provincial Service?—Yes.

297. Only five men have been promoted from the Provincial Service to the Indian Police Service?—There have been more than five promoted; there are five in the service now.

298. I would like to invite your attention to page 246 of the Memorandum,\* Appendix B. It shows that in the year 1921 there were 74 Europeans and three Indians in the Indian Police Service in this Presidency?—Yes.

299. And it shows also that in the year 1928 there are 68 Europeans and eight Indians in that service?—Yes.

300. This shows that an increase of five in the Indian cadre of the Police Service has been made during the last eight years?—Yes.

301. This means that if 76 is to be taken as the total strength of the Indian Police Service in your Presidency, half of it is 38, and 38 posts should go to the Indians and 38 should remain with the Europeans according to the recommendations of the Lee Commission?—Yes.

302. And that number 38 should be arrived at perhaps in 40 years time instead of 25 years?—There is one factor which should strongly affect that, and that is we have got to increase the number of listed posts from 5 to 9, and that cannot be done until the vested interests of the officers already in the service have been satisfied.

303. Does it mean that sufficient number of vacancies have not fallen during this period?—They have got to take into consideration those already in the service.

304. But not all of them according to the Lee Commission's report, but only twenty?—Yes. When an Englishman joins the service he has so many posts open to him for promotion, and it would obviously be unfair to reduce that number.

305. What I want to know from you is this. The addition of five posts in the Indian cadre of the Police Service has been made during the past eight years, has it not?—Yes.

306. This would mean that if half the number of the total strength, namely 38, is to be filled by the Indians, it cannot be done in less than forty years according to this rate?—Yes. But they never keep to these statistics. These statistics are always fallacious.

The statement shows that during the last three years there has not been any increase in the Indian portion of the service.

307. *The Chairman*: Am I right in thinking that that is the portion of the Indian Police Service which is what is called All-India Police Service, people who have employment through the Secretary of State?—Yes.

308. What I want to know as a matter of fact is, in addition to that, are there also other police officers in your Presidency?—Yes, sub-divisional officers.

309. The total in Appendix B would be the people down to the District Superintendents?—Down to Assistant Superintendents.

310. And the people you refer to who are recruited as All-India officers would only be holding subordinate service?—Parallel to the A.S.P.'s.

311. The same sort of difference as there is between a Deputy-Collector and Assistant Collector?—Exactly.

312. Then, in order to carry out the recommendations of the Lee Commission, you will have to increase the pace, that is the Sardar Sahib's point, at which during the next ten or fifteen years the Indian officers succeed to the posts now held by English officers?—There is one remark which is germane to this point. In connection with recruitment this year I wrote and asked for one Indian and one European Assistant Superintendent, and the Government of Bombay accepted that figure as keeping up the correct proportion; but the Government of India are giving us two Europeans on the ground that the percentage should not be regarded as on provincial basis, but on all-India basis.

313. That, I gather, means that you may have in ten or fifteen years' time more than the average percentage in some of the provinces?—Yes.

314. And less than the average percentage in others?—Yes.

*The Chairman*: If that is so, do you not think that perhaps we had better discuss this matter with the Government of India? I should like to know how they are dealing with this. It rather looks as though their view was since the Lee Commission was making recommendations to the whole of India there is a duty on them to consider how the distribution takes place between province and province.

315. *Sardar Shivdev Singh Uberoi*: Mr. Griffith, you said just now that when recruiting people from outside the province to the Police Service you put in a qualification of three years' residence in this province. I want to know whether your Government have issued any instructions with regard to communal representation in the Provincial Service?—That is laid down.

316. Has any proportion been laid down?—It is laid down that communal representation should be according to the advanced or retarded classes so far as is compatible with the material that offers.

317. Compatible with efficiency in the service?—Yes. Now the whole of this is done by the Public Services Commission.

318. For the Provincial Service also?—I understand it will be so, but it is not done as yet.

319. In future it might be entrusted to the Public Services Commission?—I gather that is the position.

320. *Raja Nawab Ali Khan*: You object to law and order being transferred?—Yes.

321. Is that your apprehension or is it the result of your experience?—Experience has not been tried yet; but it is an apprehension.

### Afternoon.

Mr. G. WILES, C.I.E., I.C.S., Secretary to the Government of Bombay,  
Finance Department.†

\* \* \* \* \*  
*Sir Hari Singh Gour*: Will you please turn to pages 620-624 of Part I of the Bombay Government's Memorandum,\* and turn to the heads Education, Medical Public Health and Agriculture? These are the principal nation-building departments.

\* \* \* \* \*  
3. \* \* \* \* \* The point I make, Mr. Wiles, is this. Of course, you have not given us the increase of expenditure per capita in your book, but I take

it roughly that, that being the increase under the four heads in question, you are not badly off compared with the other provinces, and particularly when compared with Bengal, which is a large income-tax paying country. On Education you spend 80 where Bengal spends 42, and so on?—I admit that Bengal is probably as badly off as we are ourselves.

4. You are comparing yourself with Madras, which has had a large accession of land revenue; but Madras is not very much better off than you are; there is a difference of only 15 lakhs under Education,

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† See also page 25.

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and if you combine Medical and Public Health there is a difference there of 41 lakhs for Bombay as against 53 for Madras. You see, therefore, that if you compare yourself with Madras you are not much worse off, and if you compare yourself with Bengal you are very much better off?—The comparison I should prefer to make is the one we have drawn in our own Memorandum, which shows the progress made since the Reforms.

5. I have particularly mentioned this for this reason. 1919–20 was the year immediately preceding the Reforms, and 1920–21 is the post-Reform budget?—No, the first Reforms budget was 1921–22.

*Sir Hari Singh Gour*: Even if you take 1921 it would make very little difference, if you look at your statistics.

*The Chairman*: It makes a good deal of difference so far as the Bombay figure for Education is concerned.

6. *Sir Hari Singh Gour*: There was a great jump?—Before the Reforms came in, Bombay had already spent on Education an additional 65 lakhs in the last two years of the pre-Reform era. That makes a very considerable difference.

\* \* \* \* \*

8. *Sir Hari Singh Gour*: I also want you to check these figures in the light of the expenditure per capita and the expenditure per hundred square miles (pages 626 and 627 of Memorandum, Part I\*). I simply want to point out this, that you are not so badly off as compared with the other provinces as regards expenditure on nation-building departments, if you take into consideration these figures which I have given you?—It has often been said it is possible to prove almost anything from figures, if you take convenient figures.

9. But if you accept the figures?—I accept them as accurate because they are taken from our own statement, but I prefer to take different years, which give different results.

10. Slightly different, but not materially different?—In paragraph 530 of our Memorandum\* (page 599) we take the first year and the last year available of the post-Reform years. We thought that was a more appropriate comparison. I do not want to lay too great stress on the benefits which other people have derived, but rather on the fact that we have not made such progress as we expected and thought we were entitled to make.

\* \* \* \* \*

13. \* \* \* The question I wish to put to you is this. Assuming for the sake of argument that so far as expenditure on the nation-building departments and on the progressive development of these departments is concerned, you are in line with the rest of the provinces, you say you want more money for the nation-building departments. Now, what is your future programme as regards the nation-building departments for which you want more money?—I think I said yesterday that we were up against complete stagnation in certain departments. Ministers were asking for money which we could not provide. I think I quoted education, agriculture and medical relief as being three instances in which we did not see our way to provide for the obligations which we were undertaking. There is a big medical programme being started in Bombay City which is going to lead to a good many lakhs of recurring expenditure. There is a Primary Education Bill which will want a great many lakhs, and we have, as you know, the Report of the Agricultural Commission, on which we shall also wish to spend money.

14. These are the three heads?—There may be other activities which the Ministers would like to stress, but those are the three which occur to me at the moment.

15. We will examine these three. What is your medical programme? Can you tell the Conference

more in detail about that?—You may remember that when Sir Leslie Wilson became Governor he started a campaign in Bombay for increasing medical relief in the Bombay City. He promised a rupee for every rupee collected by the public. We also embarked on a programme of building hospitals in Bombay which is now undergoing completion. The recurring expenditure on account of this, putting a rupee to every rupee raised by the public, and the recurring expenditure on the upkeep of the hospitals which we are building ourselves, amounts to a very considerable figure.

16. I suppose you would agree with me that is not a purely Presidency question? The increase of medical facilities for the cure of disease is an All-India question, and not one peculiar to this Presidency?—That is so.

17. Consequently what you really wish to do is to modernise your institutions and go ahead of the rest of India if you have the money?—Yes.

18. As regards the question of primary compulsory education, the question of the education of the masses is also an All-India question?—Undoubtedly.

19. As regards your agricultural programme, what is the precise form in which you want to spend money on agriculture?—That I am not able to say.

20. I therefore take it there is nothing specially provincial in the added expenditure you would undertake if you had more money? It is not for special local requirements, not common to the rest of India, that more money is necessary?—No, I have never claimed that they were peculiar to this province.

21. In the Bombay Chamber of Commerce memorial, paragraph 16, there is a statement which says: "Another argument in favour of removing excise on liquor from the provincial sphere is to be found in the fact that the Bombay Government had accepted total prohibition as the ultimate goal of their excise policy." You have accepted prohibition; you want to go dry. Have you consulted other provinces as to whether they are prepared to come into line with you, or is this an isolated action which your Government proposes to take?—I am not able to answer that. As far as I know we have not consulted any other provinces.

22. You recognise the impossibility of your Presidency going dry when your neighbouring provinces are wet; you would have to erect your tariff walls and establish a cordon to prevent smuggling and the importation of liquor and things of that kind. The question of whether India is to go dry or remain wet is an All-India question, and cannot be taken up by any particular province?—That is my personal opinion.

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24. *Sir Hari Singh Gour*: \* \* \* The possibility of compensating the central revenue is indicated in the direction of a tobacco tax, a tax on agricultural incomes, and death duties?—I would not put it that way. We have referred to the taxes which the Taxation Enquiry Committee pointed out had not yet been levied, but we do not suggest they should be levied; the only taxes we have suggested should be levied are the excise duty on tobacco and the death duties.

25. Very well; I shall therefore confine myself to the tobacco tax and death duties. You want the levy of a small duty on indigenous tobacco, manufactured and unmanufactured—an excise duty?—The exact form in which the tobacco tax should be levied, I think, is a matter with which we are not really concerned now. I am not able to argue very much about the tobacco tax, because it is a small tax so far as Bombay Presidency is concerned; but it was very strongly recommended by the Todhunter Committee.

26. You are not in a position to say the tobacco tax levied in Bombay will materially increase its resources?—That is my impression.

27. Therefore so far as the Bombay Government

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is concerned the levy of a tobacco tax may not be of benefit to it? It may be to the United Provinces and Madras, where tobacco is grown, and who will want a large part of it for themselves?—This is not suggested as a provincial tax, but if it becomes an All-India tax the Government of India could use it to reduce their deficit.

28. It is a small tax?—It might be a very large thing as a central tax.

29. *The Chairman*: Let me see if I understand it right, for if I do I think Sir Hari Singh Gour will agree. I understand this part of your financial proposals is constructed on this plan: you first of all point out the reason why, as you think, the Bombay Government at present is not getting sufficient financial resources. You suggest you should get a fraction of the income-tax of Imperial India, but you recognise, like a sensible man, that if you get that and it is taken from the Centre something will have to be done to make up the deficit of the Government of India. Then I understand you point out there are one or two possible ways in which that might be done, and you mention the tobacco duty as a possible way?—That is exactly the point.

30. You do not propose a tobacco duty to raise revenue for Bombay, but if Bombay gets a fraction of the income-tax it has to be taken from somebody else, namely, the Government of India. \* \* \*

*Sir Hari Singh Gour*: The question I wish to ask is this. If we compare the receipts from customs, income-tax and super-tax, we find that during the last years the customs has increased from 17 to 50 crores.

*Sir Arthur Froom*: How many years?

34. *Sir Hari Singh Gour*: Ten years. Income-tax from 8 to 12, super-tax from 3 to 4. The question I wish to put to you is this. You are aware of the fact that this sudden increase in the income-tax and the customs was due to the annually recurring deficits in the central revenue after the war, and in consequence of these repeated deficits additional emergency legislation had to be resorted to for the purpose of increasing the customs duty?—I am not acquainted with the details of the increase of customs duty. I would rather not answer that question.

35. Can you be quite sure that these sudden increases in the customs and income-tax duties would not be revised and reduced so as to bring them into the normal state as it existed before the war, in which case, instead of there being a surplus for the provinces to make a raid upon, there would be again a deficit in the central revenue?—I do not observe any sudden increase in the revenue from income-tax. It seems to me to have gone up steadily; in fact, it has come down in the last few years.

36. Shall we begin with customs?—In the case of customs, I admit there has been a vast increase, and I am prepared to admit, as Sir Arthur Froom told us yesterday, that the Government of India will probably have to reduce the rates to some extent.

37. If they reduced those rates, would there be any room for?—I am quite unable to tell you what part of the increase is due to normal increase of trade, and what part of it is due to the increase in the rates. I should like that to be worked out before I could answer such a question as you have just put.

38. Consequently, you are not in a position to state that the Central revenue is able to bear the additional cost that will be thrown upon them if in a resettlement Bombay and the other provinces receive more than their proper share—what they receive now?—We have not asked for more than our proper share. We have given our opinion that the normal growth of customs revenue, based on the figures which you have been good enough to quote just now, will help to reduce the deficit in future years. Apart from any small reductions—

39. Provided these rates are standardised?—Even providing for certain reductions where certain trades

may be hit, we are still of opinion that the normal growth of customs will increase the revenue from customs duties.

40. The Taxation Committee say, in paragraph 41, on page 450, "Some of the duties that are not protective in intention are protective in operation." That is in the Summary of the Committee's Conclusions?—Yes.

41. Consequently the duties that are protective in operation will certainly have to be revised unless we are prepared to protect them for the sake of protection and on the recommendation of the Tariff Board?—That is a question of policy on which I am not prepared to give an opinion.

42. Would you please tell me what is the real percentage of land revenue which your province received and receives as compared with the other provinces?—I do not understand the question.

43. The percentage of land revenue to total revenue?—Speaking from memory, our total revenue is a little over 14 crores, and our land revenue is a little under 5 crores. It is about 30 per cent.

44. Shall we say about one-third?—Nearly one-third, not quite.

\* \* \* \* \*

48. *Dr. Ambedkar*: In your proposal that you should get a certain part of the income-tax, are you very particular that the different provinces should get the same share in the income-tax, or are you merely using the income-tax as a balancing factor, so that different provinces may get a different share? Are you very particular in the scheme you recommended that every province must get the same share of the income-tax?—I do not think that is an essential part of it.

49. You are using it merely as a balancing force?—I do not know quite what you mean by that.

50. I mean in the recommendation part of it?—You mean when we recommend that all other provinces should get it, it is a balancing factor as far as they are concerned?

51. Some other provinces might find a better balancing force than income-tax. I mean, you are not particular that the thing should be uniform all round? That is what I am asking. Is uniformity an essential part of your scheme?—No, I do not think it is, though as a scheme of taxation I should be in favour of uniformity.

52. But is it not an essential part of your scheme?—No.

53. Some other source of revenue might suit some other province better as a balancing force?—Assuming that the division of income-tax were going to be made by means of a rate, I do not think it is essential that the rate should be the same in every province.

54. Then do not you think that the Bombay Presidency is entitled to claim something from the Government of India for the inequities of the Meston Settlement? I will give you one instance. Take for instance, the interest charges. We are paying our interest charges at present out of loans. We cannot pay them out of our revenues; that is so, is it not?—That is not the reason we are not paying them. That is the fact, but the reasons are different.

55. I put it to you that if the estimates made by the Meston Committee had come true, we should have been able to pay interest out of our revenues?—I do not think that is altogether relevant. The reason why we are making no attempt in certain instances to pay interest from revenue is that the circumstances are altogether peculiar. We expect, within a reasonable period, to get back capital receipts which will pay off the capital borrowed, together with interest, without the interest payments becoming a burden on the province at all. Those circumstances are rather peculiar, and I think they would justify us in any circumstances in borrowing the interest. For instance, I will give you the instance of the Sukkur Barrage.

56. My point is this. If the estimates made by



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the Meston Settlement had been realised, you would probably have paid the interest without borrowing?—Possibly, as an economy, yes.

57. And you are obliged to borrow the amount of the interest payments because the Meston estimates have gone wrong?—You may put it like that if you like.

58. And from that point of view I think the Bombay Presidency would be perfectly justified in claiming some sort of a set-off from the loans that have been made to us by the Government of India?—I think you would be in a position to make out a very strong case.

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**Mr. J. W. SMYTH, I.C.S., Secretary to the Government of Bombay, Revenue Department, and Mr. H. L. NEWMAN, I.F.S., Conservator of Forests.**

\* \* \* \* \*

61. *The Chairman*: I think you are now Revenue Secretary, are you not?—That is so.

62. You, Mr. Newman, are in the Forest Service, that is, the Imperial Forest Service. You are an All-India officer?—*Mr. Newman*: Yes.

63. You are not recruited for the province; you are recruited for the Indian Service?—Yes.

\* \* \* \* \*

65. Have you been Chief Conservator of Forests since, I think it was, February of this year?—Yes.

66. So you are in charge now, but you have been in the Forest Service for a number of years?—Yes.

67. Has all your forest service been in the Bombay Presidency?—Yes, entirely.

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*Lord Strathcona*: We see in the Bombay book,\* page 363, first of all the statement that "The subject of 'Forests' was transferred to the control of 'Ministers under the Reforms, this being the only province in which the subject was transferred.'" I believe it was transferred in Burma as well?

*The Chairman*: Afterwards.

68. *Lord Strathcona*: Afterwards, sir, yes. Could you let us know why, in your opinion, it was only transferred in those two provinces?—No, I cannot say. It was purely an experiment, and how Bombay came to be chosen I do not know.

69. You will probably be aware that the Muddiman Committee recommended the transfer of forests in all the provinces, if the Government of those provinces concurred?—Yes.

70. Has your experience in Bombay justified this transfer?—It is a very difficult question to answer. I suppose you mean whether it has been successful?

71. Has the forest service proceeded just as successfully with the transferred services as it did before the Reforms?—On the whole, I think, yes; but that is due to the fact, I think, that at present the service still contains a pretty large element of Europeans.

72. Yes, I am coming to that later. Now as to the administration. Could you just give us a few details to give us a very small picture of roughly the number of forest officers, and the organisation? Could you tell us roughly how many forest officers there are, and who their subordinates are?—Now?

73. Yes.—Yes. To begin with, the Chief Conservator is the head, and the province is divided up so far as forests are concerned into four circles, one of which is Sind, and there are three in the Presidency proper, and those circles are again sub-divided into a number of divisions, which are held in the charge of officers who are termed divisional forest officers, and those divisions are again sub-divided into a number of ranges under forest officers known as rangers, and below the ranges there are further sub-divisions into what are known as rounds and beats, the beat being the ultimate, the smallest, sub-division in the whole presidency.

74. Is the divisional forest officer usually a European still?—Well, he has been, but it is not correct now to say he is usually: it is about half and half now.

75. And the rangers, what are they?—The rangers are all Indians.

76. And going down, I suppose they are all Indians?—All Indians.

77. Coming to the question of Indianisation, the Lee Commission, as you know, recommended that there should be no further recruitment on an All-India basis in the transferred services. In your opinion, has this in any way affected the efficiency of the Forest Service?—Well, if you want a candid opinion, yes, I think it has; or, rather I should say that it is likely to, because it has not yet proceeded far enough.

78. You say that so far Indianisation has not proceeded far enough to affect the efficiency?—No.

79. But you are a little bit apprehensive?—I do not think any serious effect is noticeable, anyhow at present.

80. Would you care to tell us why you are apprehensive of the future?—Because, for one thing, the average Indian is not at all suited to forest conditions, and forest life. He does not like it. He would much rather go into some sedentary occupation, and that is admitted in practice by Indians themselves. You can see it in practice.

81. Is it difficult to get Indian recruits?—I should not like to say it is difficult, but it is difficult to get the right type.

82. \* \* \* Do the relations between the populations in the different forest regions and the Forest Service continue to be fairly good? I ask that question because on page 364\* the middle paragraph refers to some grievances which were brought out in the year 1925, and I wondered whether you could tell us anything about that at the present time. First of all, do you consider the relations with the population in forest regions continue good?—Well, they might be better, but I should not describe them as bad, anyhow. The department is unpopular, of course. Forest work has always been unpopular with the public in this country.

83. Why?—Because the public have the idea ingrained in them that any restriction on enjoyment of the forest is a curtailment of their rights—their immemorial rights.

84. Is that a question of grazing, and so forth, which was taken away by the Forest Department?—Yes, there are restrictions of various kinds, which are indispensable in the interests of forest conservancy.

85. Will you state briefly what the other grievances referred to in paragraph 364 were?—They have reference to certain restrictions as to rights of cutting and lopping, and more especially grazing. For the demands made, conceded and refused, I suggest reference to Bombay Government's orders conveyed in their Resolution No. 7324-24 dated 19th July, 1927.

86. Are there any districts in this Presidency in which forest panchayats have been constituted as found in Madras?—Yes, but nothing has been done on a scale approaching that of Madras, in Bombay. As a matter of fact, I had a case only yesterday which came up to me where a certain forest had been placed in the hands of a panchayat some years ago and the Collector of the district and the Divisional Forest Officer both reported to the effect that the management by this panchayat was bad and that it must be taken back again; and it has been taken back by Government.

87. And on the whole will you say that forest

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panchayats are not working very well?—I am very doubtful about their success. So far as I know in Madras the case was that they had a very large forest establishment and they had certain forest districts in which the forests were less important financially and could not have justified the heavy expenditure on their account, and, therefore, they handed over those forests to village, or panchayat management in order to get rid of their burden of expenditure. I do not think they are prepared themselves yet to say that they are successful. I am very doubtful of it in this presidency because there is not sufficient education of public opinion to ensure the safety of lands entrusted to a charge of that kind.

88. Is there any reason to suppose that owing to financial stringency or any other cause the forest resources in this presidency are not being exploited to the fullest extent?—I do not think so. I think the forest resources are being developed to the utmost. The money is provided by the Legislative Council from year to year.

89. Could you do anything more if you got more money?—Not at the moment. We are not being starved of funds. On the whole, we are being very well treated in that way.

90. Is there any question of excessive exploitation of the forests which might in the future years to come prove disastrous?—That is not the case at all. On the contrary, there are certain undeveloped forests, in Surat district and part of Nasik district where we have in the course of a few recent years been making a lot of money from forests which had previously been inaccessible.

\* \* \* \* \*

92. If you look at the bottom of page 363 of the Memorandum\* you will find that under transferred administration Forest has done very well. In 1921 receipts from forests amounted to 68 lakhs and the expenditure was 53 lakhs, giving a surplus of 15 lakhs. In the year 1926–27 receipts amounted to 76 lakhs and the expenditure was 41 lakhs, leaving a surplus of 35 lakhs. I assume that these figures have been given as fairly illustrating the increase in profits from the forest?—Yes.

93. That is under the transferred administration?—Yes.

94. And you say it has not been done by excessive exploitation by cutting more?—No; it has been done by the initiative of the Chief Conservator and the officers working under him.

95. It is stated here that:—“This result has been due both to the vigour and determination with which economy has been practised in the department and to greater initiative in the actual administration which has led to more judicious expenditure and better returns.” Has there been the same Minister during the greater part of the time, or was there a change? I do not care to know about the name.—There was a change, sir.

96. But during the whole of that time the Forest had been in charge of a Minister?—Yes.

97. And he was being advised, no doubt, by his officials?—The suggestion is made in more than one place that the whole of the credit for this financial success is due to nothing more than the fact that we have Ministers. That is not the case. We have had splendid support from the Ministers, but the responsibility lies with the department.

98. But the deduction which I would be disposed to draw is that at any rate the transferring of the department has not interfered with its success or its economic advance?—No; it has not resulted in any set back in that respect financially.

99. I am not quite clear whether the anxieties which you expressed as to the future have anything to do with its being a transferred subject, or whether your anxieties are on the subject of Indianisation?—They are much more so on the point of Indianisation.

100. Of course in the other departments I think you will tell me, Mr. Smyth, that when a department

becomes transferred, the future recruiting of the department has been provincial recruiting?—(Mr. Smyth): I believe, sir, it is.

101. And what about the Imperial recruitment?—Recruiting is done by the Local Government on terms and conditions drawn up by itself, and the European officer selected will be under the control of the Local Government, and he would not have the same amount of protection which an Imperial officer appointed by the Secretary of State would have.

102. I had thought that in other departments, when a department became transferred, the future recruiting is provincial recruiting?—Yes, it will be done by the Provincial Government.

103. I had further thought that where the recruiting is for provincial purposes, it would for all practical purposes be Indian recruiting?—So far very little recruiting has been done, but it may be assumed that that will be the case.

104. I gather that Mr. Newman's anxiety is merely an anxiety as to the effect of increasing Indianisation?—That is what he said.

(Witness: Mr. Newman): I am afraid that recruitment now so far as Europeans are concerned is absolutely dead. I do not see the slightest hope that any European, even if offered a chance of coming to the Presidency where Forest is a transferred subject, will ever come, because the terms offered to him and the conditions of service are not sufficiently attractive generally.

105. So, that is the real reason why you feel apprehensive about the future. It does not seem to have anything to do with the transfer of the department as such?—No.

106. Mr. Cadogan: Mr. Newman, would it be fair to say that in your department any of the posts are highly specialised requiring a long period of training and that Indians occupying those places have not had such training? Would you be prepared to say that? In other words are there Indians occupying posts in your department who have not had sufficient training?—Yes, there are some.

107. What I am driving at is whether Indianisation has affected efficiency?—Among Indians whom we have got now, who are in the Imperial Forest Service are men who have been promoted from the ranks of the Provincial Forest Service. As a general rule they have given complete satisfaction. They have been associated with European officers throughout their service. It is too early yet to pronounce an opinion on our directly recruited Indian officers as they are very junior.

108. Are there a number of Indians holding posts in your department who have not had sufficient training of a highly specialised type?—Yes, there are.

109. My question is—is it fair to judge that efficiency is affected by Indianisation?—It depends upon the extent to which Indianisation is carried.

110. Lord Burnham: Is it the case that service under the Forest Department has a special attraction for a good class of Europeans?—Most distinctly.

111. Why?—It is the kind of life that appeals to Europeans.

112. Is it equally the case so far as your observation goes that the same reasons do not actuate a similar class of Indian candidates?—That is my experience up till now.

113. Therefore, without any reflection whatsoever on racial grounds, you think that for quite another reason you are likely to get a better class of Europeans? Yes.

\* \* \* \* \*

116. Colonel Lane-Fox: Would you refer to the Memorandum,\* page 364. In the middle paragraph you will find it stated:—“The administration of the Forests owing to its having become a transferred subject has naturally attracted a certain amount of attention in the Legislative Council, and at various times resolutions have been proposed by non-official members which, if adopted, would have had

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"a disastrous effect on forest administration, and "in particular on forest conservancy." In what direction will they be?—Well, we had an instance of that lately. As a matter of fact, Forests, as you know probably, in this country are very much subject to fire and the fire is repeated from year to year over a large extent of the country. The ultimate effect is very disastrous. So the Bombay Government have hitherto reserved in their hands a weapon known as communal punishment for dealing with fire offences—incendiarism. That is to say, villagers are held collectively responsible. But under political pressure about a year ago the Bombay Government suspended those orders and the result was, to take one circle only in Bombay, the area which was burnt within 12 months was double the area that was burnt in the previous year—from 100 square miles it went up to 200 square miles.

117. Does this mean in fact that it would be more easy to deal with incendiarism if Forests were not a transferred subject?—Well, it is possible when we are aware that under the pre-reform administration we had not that trouble at all because the Collectors took much interest in the matter.

Does it mean that the Council were urging that incendiarism should not be so severely dealt with? What does this paragraph mean?

118. *The Chairman*: I think, as a matter of fact, the witness had been led into giving an illustration which does not really relate to this paragraph. The next sentence of the paragraph runs thus:—"It is to the credit of the Council that it has accepted the "Minister's declarations, and that in practically every "case resolutions of an unacceptable character have "been rejected." The Council, generally speaking, refused to adopt resolutions which would have gone against the Forest policy.—That is what they say.

119. Is not that right?—It is to the credit of the Council. I would give credit where it is due. But what I say is that mistakes like that had occurred which would not have occurred had we been able to act without reference to the Council.

120. *Colonel Lane-Fox*: Is it your view that the position of Forests would have been better if it were not a transferred subject?—It would have been much better.

121. *The Chairman*: I want to be sure about that point. It is a fact that there have been cases where members of the Council put down a resolution which if it had been adopted would have gone against the Forest policy. But the Legislative Council when it heard the arguments of the Minister in favour of the Forest policy had accepted his advice and refused to make the mistake?—Yes.

122. Now, you also say that there were cases in which there was what you call political pressure and public opinion which caused the Government to change its plan and instead of fining a whole village it was required to try to find out who did set fire. Is it not so?—Yes.

123. I dare say it is much simpler to fine the whole village, but after all it is better to find out who is really to blame?—That is where the difficulty lies.

*The Chairman*: It may be a difficulty but we must appreciate the opposite view which may be natural and reasonable.

*Lord Burnham*: Since then forest fire has increased?

*The Chairman*: Yes.

*The Witness*: I am not advocating communal punishment in the administration. We are forced to do it.

*The Chairman*: It is a matter of administration. It does not touch our inquiry. We want to know how the thing has worked under a transferred ministry.

124. *Dr. Ambedkar*: Mr. Newman, you said just now that the Indians were not suited for forest life and therefore Indianisation was likely to affect the efficiency of the service?—That is more or less correct.

125. Do you think that that statement will apply to all classes of Indians?—I think it has a fairly general application.

126. Do not you think that there will be some Indians who would like forest life much better than others?—Yes. For instance, Muhammadans like it better than Hindus.

127. If you made recruitment from such classes, I suppose Indianisation would not have affected efficiency as you predict?—I am not concerned whether a person is of a depressed class or otherwise, provided he is an efficient man.

128. What I want to point out is that there are some classes who would be quite capable and suited to forest life and their employment, although it would have meant Indianisation, would not have affected the efficiency of the service?—I do not think I suggested that there were none amongst Indians suitable for forest life. That is by no means the case.

129. *Khan Sahab Abdul Latif*: on page 364\* it is stated: "In the year 1925, Government accepted a "resolution of the Council to appoint a committee "to inquire into certain grievances alleged against "the administration of the department." You will see that as a result Government made a number of concessions?—No, there were certain recommendations made by the Forest Grievances Committee which were not accepted by Government in toto.

130. Which?—I cannot call to my mind what they were at a moment's notice. There were some concessions which were not granted. For instance, a demand was made that no forest should exist within a quarter of a mile of a village. That was a demand put forward and that was negatived if I remember aright. But I cannot tell you for certain without reference to the papers.

131. *Rao Sahab Patil*: Mr. Newman, so far as your experience goes do not you think that Indian officers have done their work in the department quite satisfactorily?—Yes, on the whole; certainly.

132. Now my next question is—the Bombay Legislative Council appointed a Committee and is it not a fact that the non-officials were unanimous in their recommendation?—As far as my recollection goes they were.

133. Do not you think that there were practically two important points upon which the Committee concentrated their attention, namely, grazing fees and communal punishment?—Yes, those were the outstanding questions.

134. Then so far as communal punishment goes, did the Government accept the recommendation that communal punishment should be done away with?—Yes, temporarily. It was only suspended.

135. But will it apply to the whole of the Presidency?—No, only to certain districts. It was restricted to three districts by way of experiment.

136. Do you think that the Forest Department is a commercial concern so far as grazing is concerned?—I do not see why Government should forgo revenue from grazing.

137. It is a commercial concern according to you?—I do not think so.

138. Was it not a recommendation of the Committee that the grazing fee should be four annas per head?—No, but that it should be reduced or even allowed free.

139. Did the Government accept that?—No.

140. Is it not a fact that the Government said that there are other concessions which would be considered by Government later? The Minister in charge of Forests made a declaration in the Council that for the present some concessions were given and as regards others attention would be paid to them?—Possibly, I do not remember.

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142. *Syed Miran Muhammad Shah*: Mr. Newman, would you tell us what sort of academic qualification is required for service in the Forest Department?—*(Mr. Newman)*: At the present moment a man must possess a Degree of some recognised university.

143. What sort of Degree?—He must possess an

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Honours Degree in one of the Sciences to start with before he can be nominated at all. I cannot tell you the exact rules. Of course there are various rules. But that is one essential qualification at the moment.

144. That he should possess a Degree in Science or Mathematics?—An Honours Degree such as B.Sc. or B.E. or something of that sort.

145. Is a knowledge of Botany requisite for the purpose of the Forest Service?—Yes.

146. How many Indian Conservators have you got in the Forest Service in the presidency at present?—Conservators we have none at present.

147. How many Sub-divisional officers?—Do you mean Divisional Forest Officers?

148. Yes.—About 19 of them.

149. Out of how many?—Out of about 28. Nineteen are in charge of Divisions out of 28.

150. Have these Indians given you satisfaction in the service?—Some have, and some have not. On the whole they have.

151. Do you think that Indians will be capable of carrying on the administration of the Forest Department?—Some are, most certainly.

152. Is it due to their want of requisite knowledge of Forests or on account of certain other reasons that Indians are not suited?—They lack very often physical energy. Lack of physical energy is at the bottom of it very often, and general dislike of forest conditions. It is a very arduous life indeed.

153. How many days have they to live in the forest?—They have to spend nowadays about nine months out of the twelve in the forest. Formerly that was not so. The working is now very much more intensive. I did not spend more than six or seven months in the year when I joined the service actually out in the jungle. But nowadays they have to spend far more time in the jungle.

154. You said that Muhammadans are more suited for forest life?—Nearly always, that is, in the lower ranks. We have only one Gazetted Muhammadan officer at present.

155. Is there any room for further exploitation in the forest field in the Presidency?—No, not at the moment, not until more roads are built.

156. Can you give me a rough idea of the proportion of income from grazing fees?—Yes, the grazing fees in the Presidency amount to something like five lakhs per annum, roughly.

157. Would you like the idea of transferring the forests in a particular district to the supervision of the district local boards?—At present it does not commend itself to me. No.

158. Why do people resort to incendiarism? Why do they set fire to forests?—They do it deliberately really during the hot-weather months in order to raise a fresh crop of green grass. That is the chief object—to raise a fresh crop of green grass for cattle during the hot weather months. Otherwise green grass is not to be had.

159. You have got lands in one of the forests to lease out for cultivation?—Yes.

160. What is the percentage of income from these lands?—I cannot tell you, but something quite insignificant compared to the general revenues.

161. *Sir Arthur Froom*: You are Chief Conservator?—Yes.

162. There are four Circles?—Yes.

163. That means four Conservators?—Yes.

164. Then you come next to Divisions. How many Divisions have you?—There are 28 divisions—not all territorial. There are certain Divisions known as Working Plan Divisions. There are at the moment three of these. So there are really 25 Territorial Divisions and three which are known as Working Plan charges.

165. Who are in charge of these Territorial Divisions?—They are officers of the rank of Assistant Conservators and upwards. They are generally known as Divisional Forest Officers.

166. Then you come down to the range in charge of a Ranger?—Yes.

167. And below them are watchers?—Yes.

168. Beginning from the bottom, where does the total Indian element end? The watchers are Indians?—Yes.

169. The ranger is an Indian too?—Yes.

170. The Deputy Conservator might be an Indian or a European?—Yes, either an Indian or a European.

171. Are there any Indians among the Conservators?—Not yet. There are no Indians at present who can stay long enough in the service to reach the Conservator's rank, except the most newly-appointed men, very junior men, who will not reach the Conservator's rank for another twenty years.

172. Amongst your Indian Deputy Conservators would you say you have got any Indians fit to be promoted as a Conservator? If it embarrasses you I do not want to put the question.—I do not mind.

173. You have a number of Indian Deputy Conservators. You know of any outstanding men who might be promoted to a Conservator's rank from the point of view of suitability and capability?—I know of one or two at the moment.

174. So after all some Indians in the Forest Service are capable of running the big forest districts?—Perfectly capable. There are one or two outstanding men, of course. There will always be, I think.

175. You want to leave Englishmen with them?—What I want to do is to maintain a proper mixture.

176. That is your opinion?—I consider that the minimum should not be less than 50 per cent.—50 to 50.

177. When you entered the service you had to undergo an examination?—Yes.

178. In England?—Yes.

179. Were many Indians going in at that time?—No, there were very few.

180. Indians did not care for Forest Service as much as they did for the Indian Civil Service? You told us that there were very few Indians who went up for the Imperial Forest Service by competitive examination in England?—Very few in my time.

181. But there were, as you know, a considerable number of Indians going up for the Indian Civil Service?—Yes. The same is the case with the Engineering Service, too.

182. And from that could the Conference deduce that there is not the same inclination on the part of Indians for the Forest Service?—I do not know what else you could ascribe it to.

183. You said that the Forest Service is a very hard life, especially for more junior men?—Yes.

184. You have to be in the jungle for a large part of the year? There is the climatic reason—the unhealthiness?—That is most certainly the case. A man should have tremendous physical capability. Tremendous physical exertion is required in order to be a competent Forest Officer in this country. He has to resist the fever, too.

185. Fever attacks Englishmen and Indians alike? Or does it attack one more than another in the forest?—We have Forest Officers who leave this country with their health completely undermined.

186. Perhaps that is one reason for its not being popular?—I should say that that was a very large reason.

187. It is a hard life and a great tax on one's health?—Yes.

188. *Sir Hari Singh Gour*: I would just like to ask you one question. You said just now that in your time lots of Indians used to compete for the I.C.S., but not to the same extent for the Indian Forest Service?—Yes.

189. Did not more Englishmen compete for the I.C.S. than for the Indian Forest Service in your time?—Well, the number of posts offered in the Indian Forest Service was always limited. The number of candidates that came up in proportion to the number of posts offered I suppose was much about the same.

190. Then you draw no deduction from the fact that a smaller number of Indians, and for the matter of that a smaller number of Englishmen, used to



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compete for the Indian Forest Service as compared with the Indian Civil Service?—Yes. I never saw a single Indian appear in my time.

191. Because the attractions in the Indian Civil Service were great then?—They think the Indian Civil Service, for one thing, offers better prospects and a more pleasant sort of life from their point of view, I take it.

192. That would equally appeal to Englishmen?—Well, I do not know. There are many Englishmen who are specially attracted to jungle life. There are many men in this country now who would tell you to-day that they would far rather have gone into the Forest Service than into the service in which they are at present. Plenty.

193. Are there any graduates in the Indian Forest Service?—Yes.

194. Many?—Yes.

195. Of the English Universities?—Both Indian and European.

196. Oxford and Cambridge graduates?—Yes.

197. The higher class of forest training was not available in this country till very recent years?—No.

198. It started at Dehra Dun?—Yes.

199. That college is open to Europeans and Indians alike?—I believe it is.

200. I can assure you it is. Consequently if Europeans prefer forest life they can go to Dehra-Dun?—Yes, but I do not think they ever go or will go there.

201. And enter the Indian Forest Service?—Yes.

\* \* \* \* \*

203. *Sir Zulfiqar Ali Khan*: You would not like the Indianisation of the Forest Service?—No, not completely.

204. I do not understand the word "completely." Do you mean to say largely?—I mean to say that there should always be a certain element of both Europeans and Indians.

205. But you think that there should be a preponderance of Europeans in the Service?—I do not say that. 50 and 50 should be the percentage adopted.

206. Indians should not be more even if they are equally trained men as the Europeans?—I think that 50 and 50 in any case is the right proportion for men of the same training.

207. Do you know, Mr. Newman, that in Dehra Dun Forest Service there are a large number of Indian trained men who are doing very well?—I quite believe it.

208. Why should they not do equally well in Bombay?—You are talking, I take it, about the College.

209. No; in regular Forest Service.—I have already said that there are some men in the Bombay Presidency who are doing very well; there will always be some. I am only speaking generally when I say that.

210. Can you give me any instance in which an Indian promoted to one of the higher ranks has failed to do his duty?—I have not had a case in my personal area from which I could form an opinion, but there have been several instances. I see no reason why he should not do perfectly well if he is the right type of man.

211. *Sardar Shivdev Singh Uberoi*: You said, Mr. Newman, that an average Indian would not like the Forest Service?—Yes.

212. Of course one branch of the Service is Indian Forest Service and the other is Provincial Forest Service?—Yes.

213. May I know who forms the majority in the Provincial Forest Service, Indians or the foreigners?—Practically all Indians.

214. Then what data have you to form this opinion that the average Indian would not like the Forest Service when the Provincial Service is manned all by Indians?—Because I judge by the quality of work in their respective charges.

215. Do you mean to say that the quality of work

for an Indian Forest Service man is harder than that for a Provincial Service man?—Yes, generally speaking; he has a more responsible and heavier charge.

216. If I understood you aright you said that the Provincial Forest Service is manned all by Indians. My question is if Provincial Service could be manned by Indians why the Indian Forest Service cannot be manned by Indians?—The management of the Provincial officer is almost always less efficient than that of the Imperial officer.

217. Only on account of efficiency?—The Provincial officer is less efficient taken as a whole.

218. When an Indian is qualified from a British University in this special line, can he not be fitted for the service?—He can be if he is efficient, and there are instances of his being so.

219. There is no reason for you to say that an Indian as an Indian has no liking for the Forest Service?—I say that on the whole; that is my own experience.

220. On what do you base it when the majority of men in the Provincial Service are Indians?—Young men have to find a career somewhere, but there is no doubt the educated Indian as a rule prefers other professions, equally or more lucrative and less physically toilsome, with greater social amenities.

221. *Raja Nawab Ali Khan*: You said that the average Indian is not suited for forest life and then you went on further and said that he has admitted it?—What I mean is that Indians themselves in service have expressed the opinion to me, that retention of a number of Europeans is essential for the good of forest administration.

222. Your subordinates?—They may or may not have been my subordinates, but probably some of them were.

223. You have said that Forests is a transferred subject in Bombay and Burma and it is not so in other provinces. Then you said that from the time the Forests were transferred to the control of the Ministers there have been more cases of fires and more area was burnt down?

\* \* \* \* \*

224. *Raja Nawab Ali Khan*: I want to know whether you have got any statistics of forest fires?—Yes.

225. Are they comparatively more than in other provinces?—I cannot say that because I have not made any comparison. But they are very bad in Bombay this year.

226. *The Chairman*: I would like to know whether, apart from this particular instance, they have been getting worse over a series of years, generally speaking?—No. There has been some improvement, a notable improvement. It took place long ago before Forests were transferred. As a matter of fact, in one district, known as "The Dangs," in the Bombay Presidency there has been a very great improvement. It fluctuates from year to year.

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228. *The Chairman*: Let us be perfectly clear. Whether you have more fires or less fires has got nothing to do with the forests being a transferred service?—Nothing.

\* \* \* \* \*

230. (*To Mr. Smyth*): I hope that you feel that the matters of fact brought out represent the views of both of you?—Yes, sir.

231. If there is anything which you want to express distinctly—I mean any opinion different from that expressed by Mr. Newman—please take the opportunity of doing it now.—No, I have nothing to add to what Mr. Newman has stated.

*The Chairman*: Thank you.

NOTE.—For further evidence in the Bombay Presidency, which was taken in Sind, see pages 114-124.

**MEMORANDUM SUBMITTED BY THE CHIEF JUSTICE AND JUDGES OF THE HIGH COURT OF BOMBAY.**

1. In submitting this Memorandum to the Indian Statutory Commission through the Government of Bombay, the Chief Justice and Judges of the High Court of Bombay desire in the first place to explain their position. It is not the practice of this High Court to tender advice to Government unless requested so to do, or unless the matter is one coming under the direct cognizance of the High Court, and is of such a nature that the attention of Government may be usefully drawn to it. Hitherto no official request has been sent to the High Court either by Government or the Indian Statutory Commission to tender advice on any subject coming within the scope of the Commission, nor have any papers on the subject been officially circulated to the High Court. As regards the bulk of the work of the Commission this is clearly understandable, for presumably it will be mainly political in the modern sense of that word and as regards such matters the High Court is in no way concerned. On the contrary its settled practice is to keep strictly aloof therefrom.

2. It would however appear from a Memorandum published in March, 1928, in the public press and elsewhere that the Commission has invited statements both from official and non-official sources from representative associations, local bodies and responsible individuals on any of the subjects falling within the limits of the inquiry to be undertaken by the Commission, and that amongst such subjects are included as item No. 7 "The Courts and the Judiciary." Further quite recently there has been published in the public press a Memorandum submitted to the Commission by the Associated Chambers of Commerce of India and Ceylon, in the course of which they propose that all High Courts in India should be under the Government of India both for administration and finance. They further suggest that a Supreme Court may become necessary. These proposals are important in themselves, and come from a body of great importance; and they directly affect this High Court and the Presidency at large. If then the Commission is prepared to consider these proposals as falling within the limits of their enquiry, it would seem desirable that some opportunity should be given to this High Court of expressing its views on the subject. Before doing so however this High Court would have preferred to have had the advantage of a discussion on the subject with representatives of the Government of Bombay, but as time presses owing to the Commission visiting the Presidency of Bombay first, it has been thought desirable that the High Court should make the following preliminary statement, confined in the first instance to the proposals made by the Associated Chambers of Commerce, and should ask for liberty to supplement it at a later stage if necessary.

3. At the outset then it may be found convenient to state briefly the history and the present jurisdiction and position of this High Court. It represents an amalgamation effected in 1862 of (a) the Supreme Court of Bombay founded by the King's Charter of 1823 and inheriting earlier jurisdiction acquired at various times since the cession of Bombay to the Crown in 1661, and (b) the Courts founded by the East India Company in the up-country or mofussil districts of the Presidency. The former (a) represented the King's Courts and was granted by the Charter of 1823, speaking generally, the jurisdiction of the Courts in England so far as regards the town and island of Bombay. The latter (b) took their jurisdiction from legislative authority conferred upon the East India Company. The main area then of this High Court's jurisdiction still divides itself into two natural branches, viz. (i) the town and island of Bombay which may be called Bombay and (ii) the up-country or mofussil districts. As regards (i) the Court is concerned with a great commercial city ranking third or fourth in population amongst all the cities of the British Empire. And here the Court has to deal with suits from start to finish, for they

all originate in Bombay and are tried there. Hence this main branch of the Court is called "the Original Side." As regards (ii) the Court is concerned with the problems of large agricultural areas, for the up-country districts apart from large towns like Poona and Ahmedabad are mainly devoted to agriculture. And here the Court has to deal with suits on appeal, for they originate and are tried in the mofussil. Hence this other main branch of the High Court is called "the Appellate Side." Accordingly, the main feature of litigation in Bombay is originating or appellate mercantile and commercial litigation, particularly relating to the sale of goods. The main feature of litigation from the up-country of mofussil districts is appellate litigation concerning land.

4. As regards the general nature of this jurisdiction, it is of a most extensive and varied character. It includes every variety of civil suit from mortgages down to divorce, apart from revenue matters, and even there this High Court is given by statute a special jurisdiction as regards for instance income-tax and super-tax. It also includes all criminal jurisdiction. This civil and criminal jurisdiction is exercised over some 16 millions of people living in an area of some 77,700 square miles in the Presidency proper, excluding Sind. This High Court has also special jurisdiction over certain cases coming from the Persian Gulf, Aden and Zanzibar and it is proposed by the Home Government (contrary to the wishes of this High Court) to extend it to Abyssinia.

5. With this large population the litigation naturally runs into large figures, as will be seen from the Report on the Administration of Civil and Criminal Justice in the Bombay Presidency for the year 1926. Taking first the Original Side (which is the largest Original Side of any High Court in India) it will be seen from page 82 that during that year 3,621 suits were disposed of in addition to 21 Testamentary suits and 1,168 Insolvency matters, making a total of 4,818. It also disposed of 88 appeals from its original jurisdiction. As regards Criminal Sessions 105 cases were disposed of, all of which were tried with juries. Turning next to the Appellate Side, 1,193 civil appeals in all were disposed of, in addition to 1,361 miscellaneous civil matters (see page 85). As regards criminal work, 642 appeals and 390 references were disposed of, in addition to 161 miscellaneous applications. The aggregate total then for the year on both Original and Appellate Sides, civil and criminal, amounts to some 5,670 suits, cases and appeals, and 3,090 Insolvency and other miscellaneous matters.

6. Turning next to the Mofussil Courts, it will be seen from page 80 of this Report that during the year 1926 they disposed of 1,28,515 civil suits and 4,604 civil appeals. In addition 708 criminal cases and 1,710 criminal appeals were disposed of by the Sessions Courts. The above is apart from the Small Causes Court, Bombay, which disposed of 35,137 civil suits. It is also irrespective of a very large number of criminal matters tried by the Magistrates in Bombay and in the mofussil. From page 38 it would appear that about 2,66,237 persons were put on trial, other than in the Courts of Session or Superior Courts.

7. The judicial staff to dispose of this litigation will be found at pages 1 and 17 of the Report. It consists as far as the High Court is concerned of 8 permanent Judges (including the Chief Justice) and 1 or 2 temporary additional Judges. As this staff is unable to cope with the voluminous civil and criminal work on both the Original and Appellate Sides without there being regrettable arrears, an increase to 11 permanent Judges has been asked for. This request is still under the consideration of Government. As regards the mofussil, the country is divided up into some 17 different Districts, at the head of each of which there is a District Judge. Under the District Judges there are for civil work some 22 first-class and 104 second-class Subordinate

Judges, in addition to 2 Joint-Judges, 7 Assistant Judges and 2 Small Cause Court Judges. This is exclusive of the Bombay Small Causes Court which has 6 Judges. As regards the criminal work each District Judge is also Sessions Judge, and usually the above Joint and Assistant Judges are given the powers of additional Sessions Judges. Apart from these officers, there are a large number of magistrates, most of whom are not engaged exclusively in judicial work, but have executive duties to perform as well such as revenue or police work. The Report at page 17 shows that there were some 974 first, second and third-class magistrates, 467 Honorary Magistrates and 19,741 Police Village Patels for the year in question. Under section 107 of the Government of India Act the High Court is given the superintendence over all Courts subject to its Appellate jurisdiction, and may make general rules for regulating the practice and proceedings of such Courts, subject to the previous approval of the Government of Bombay.

8. The income brought in from this litigation also runs into large figures. As regards the Original Side the receipts for 1926 were Rs. 10,16,740 and the expenditure Rs. 7,02,345, leaving a net surplus of Rs. 3,14,395 (see pages 5 and 6 of the Report). This is irrespective of Rs. 10,87,212 collected by the High Court for Probate Duty, and if 10 per cent. is allowed for the cost of collection, this surplus would be increased to Rs. 4,23,116. On the Appellate Side however the receipts of Rs. 1,83,987 were less than the expenditure of Rs. 3,92,270 by Rs. 2,10,029. But if this deficit of Rs. 2,10,029 be deducted from the above net surplus of Rs. 4,23,116 on the Original Side, a final surplus profit is shown of Rs. 2,05,087. The above expenditure includes the salaries of the High Court Judges. In effect these figures show that the civil litigant on the Original Side pays for the costs of all the Original Side civil and criminal litigation and also for the deficit on the Appellate Side caused by the appellate civil and criminal work from the mofussil.

9. As regards the financial figures for all the Courts of the Presidency both civil and criminal, the surplus of receipts over expenditure for the year 1926 was Rs. 30,57,574 according to the official return of the Accountant-General. This expenditure included expenditure over new buildings amounting to Rs. 9,00,000 and also repairs to buildings to the extent of Rs. 87,203. Speaking generally then it would appear that the Courts whether in Bombay or the mofussil bring in a substantial net revenue to Government, after paying all expenses including salaries and expenditure on buildings, and the cost of criminal work; and that it is the civil litigant who mainly produces this satisfactory financial result. This has to be borne in mind in considering any question of the transfer of the High Court to the Government of India for administrative or financial purposes.

10. The permanent High Court Judges are appointed by His Majesty and hold office during His Majesty's pleasure [sections 101(2) and 102(1), Government of India Act, 1915]. In practice in recent years they undertake on appointment to retire at 60, though there is no provision to this effect in the Act. This age-limit is not always to the advantage of the High Court, and might be reconsidered. Temporary additional Judges for periods not exceeding two years are appointed by the Governor-General in Council [section 101(2)(i)] and acting Judges to fill temporary vacancies by the Government of Bombay (section 105). The salaries, furloughs and pensions of the High Court Judges are regulated by special statutory rules made by the Secretary of State which will be found in the India Office List, 1928, page 388. The grant of furlough rests usually with the Government of Bombay.

11. The office staff of the High Court is appointed by the Chief Justice under clause 8 of the Letters Patent of 1865, and they are paid such reasonable

salaries as he appoints and as the Governor of Bombay in Council subject to the control of the Governor-General in Council shall approve of. The aggregate office staff numbers about 212, including the Insolvency Department which accounts for 33 and the Translation Department which accounts for 55 members. They are under the general control of the Chief Justice.

12. The work of the High Court falls into two natural divisions, viz. (a) its judicial work and (b) its administrative work. As regards (a) the sittings in open Court are substantially the same as in the High Court in England, viz. 5 hours per day for 5 days per week. The Bombay Vacations (including the Christmas and Easter holidays) are less, viz. 12½ weeks against 16½ weeks in England, but in Bombay the Courts are closed on certain Government public holidays numbering about 18 days in all, and therefore the aggregate Bombay vacations and holidays amount to about 15 weeks against the English High Courts 16½ weeks. The sittings of the High Court are held solely in Bombay, and it does not move with Government to Mahabaleshwar and Poona. Nor does it go on circuit. In this latter respect there is no recent instance of the exercise of the powers given by clause 31 of the Letters Patent. But inspection tours of the various District Courts lasting some 4 or 5 months are or ought to be made every 2 or 3 years by a High Court Judge, and proper financial provisions ought to be made for these tours by the local Government. At present there is difficulty in obtaining financial sanction to them, and the same observation applies to short tours or visits by the Chief Justice.

13. As regards (b) the administrative work is heavy and increasing in burden. It primarily falls on the Chief Justice and on the Administrative Judge, Appellate Side, and the Administrative Judge, Original Side, respectively, but many of the more important questions are laid before the Judges as a whole, and occupy a great deal of their time. This administrative work is largely affected by correspondence with Government, and includes advice on the appointments, postings and promotions of the mofussil Judges; the variations of the Courts in accordance with local needs; the finances of the High Court including salaries and other expenditure; pending or suggested legislation; the framing and amendment of rules and procedure; the admission of advocates, attorneys and vakils after examination, and the investigation of complaints. As regards legislation, it had become the practice of the Government of India and the Government of Bombay to ask the opinion of the High Court on an increasing number of Bills or Resolutions, many of which did not affect the High Court or the Courts subordinate to it. But as the result of representations made by certain High Courts, including the Bombay High Court, it is anticipated that this branch of their work will decrease. As an instance of their administrative work it may be mentioned that in the course of the last two years the Chief Justice and Judges have held an enquiry into the reorganisation of the whole of the departments and staff of the High Court, the papers on which alone have run into some 800 large printed pages. There has also been an enquiry into the judicial and office staff of the several 17 District Courts and the Courts subordinate to them. The proposals of the High Court as the result of these enquiries are now before the Government of Bombay.

14. It may here be observed that even as regards any matters which may ultimately go before the Secretary of State or the Government of India, the practice is for the High Court to send them in the first instance to the Government of Bombay. This would seem clearly a convenient practice under existing conditions, for then the local Government knows of the proposals of its own High Court and can also express its own views in forwarding the papers to the Government of India. As regards appointments to the High Court, the Chief Justice

is usually consulted personally on these and some other appointments. As regards appointments to the District and Subordinate Courts, the practice is for the Chief Justice and Judges to be consulted by Government.

15. To complete this sketch of the present position and work of this High Court, the Chief Justice and Judges would like to say that the tradition of this High Court has been to maintain friendly relations with its own Government without in any way jeopardising that independence which it is essential for any efficient High Court to maintain. The personal equation may at times lead to minor variations in this respect. But the Indian Statutory Commission may take it that this High Court highly appreciates the consideration and courtesy with which it has been treated by the Government of Bombay over a long series of years in the discussion of a large number of complicated and difficult subjects.

16. Turning next to the specific proposals of the Associated Chambers of Commerce, the onus of proof would seem to lie on those who advocate the change that in future this High Court should be under the Government of India both for administration and finance. It is not altogether clear whether the proposal is intended to include the District Courts as well as the High Court itself. If, however, the proposal does extend to the District Courts, then this High Court cannot support it. The figures for the Districts given in paragraph 7 show that at present the Government of Bombay is concerned with some 160 Civil Judges and 974 Criminal Magistrates in addition to 467 Honorary Magistrates. The appointments, transfers and leave of all these officials must necessarily involve a local knowledge and a heavy correspondence which is not of sufficient importance to justify the expense and delay caused by its transference to Delhi and Simla, and the heavy increase in that correspondence which would be caused by the central Government having necessarily to consult the local Government in a large proportion of matters. Further, as regards the 974 Magistrates who perform both judicial and executive functions, the whole system would presumably have to be recast, as otherwise the Magistrates would be part-time officials under the Government of India and part-time officials under the Government of Bombay. It is recognised that if henceforth the High Court was to be under the Government of India, and the mofussil Courts under the Government of Bombay, there might be some risk of friction between the local Government and the High Court, but it would have to be left to the good sense of those in authority to prevent this. It is also recognised that this division would render it necessary to make some adjustment as between the Government of India and the Government of Bombay of the revenue derived from the High Court and the mofussil Courts respectively. But the latter is a financial detail.

17. Confining then the proposal to the High Court itself, but retaining the High Court's existing powers of superintendence over the District and other subordinate Courts under section 107 of the Government of India Act, the main points for consideration in favour of the proposal would appear to be as follows. First that the centralisation of the High Courts under the Government of India would tend to the unity of the Indian Empire and the greater security of the High Courts themselves. Secondly, that a central authority would tend to improve and co-ordinate the general administration of all the High Courts by adopting the good and discarding the bad methods that may now be found in individual Courts. Thirdly, that appointments would not be subject to the same political or communal pressure. Fourthly, that the High Courts would be removed from the risk of attacks in the local Legislature, and as regards the Central Legislature, the Government of India would probably be strong enough to prevent unfair criticism. Fifthly, that the effective work of the High Courts would no longer depend on the fluctuating finances of its local

Government or on the chances of some hostile vote on the annual Budget, or on the hostility or opposition of some extremist local Government of the future.

18. As regards the first and second points, the High Courts of India number at present seven. The four senior Courts are those of Calcutta, Madras, Bombay and Allahabad. The three High Courts of Patna, Lahore and Burma have been formed within the last 12 years or so. The total number of permanent and temporary additional Judges in these 7 High Courts would appear to be about 83 according to the India Office List 1928. In addition there are several Chief Courts or Judicial Commissioner's Courts which for certain purposes have the powers of a High Court. It is not proposed to refer to them any further, except to say that as regards the Court of the Judicial Commissioner of Sind, the Act (Bombay Act No. VII of 1926) which was passed to convert it into a Chief Court with increased status and powers has not yet been carried into effect owing, it is believed, to the financial condition of the Government of Bombay. Nor is it proposed to deal specifically with any of the other High Courts except to say that the High Court of Calcutta has long been under the Government of India, and that therefore their Judges are in a position to state the advantages and disadvantages they have thereby experienced. The distances between the Provinces are so great and the existing opportunities of meeting Judges from another Province are so slender that these factors added to the diversity in the needs and procedure of the various Provinces make it impracticable for the Judges of this High Court usefully to make any specific suggestions as to the work or needs of any other High Court. No doubt this to some degree bears out the suggested need for a central authority. The Privy Council, for instance, has been a strong link in connecting up the various parts of the British Empire from a judicial point of view. And in time the Government of India might be able to effect a similar result within the Indian Empire from an administrative point of view. But against this has to be weighed the practical difficulty of a central authority acquiring sufficient personal knowledge of the needs of the various High Courts spread as they are over a vast area of approximately the size of Europe (apart from Russia) and containing an aggregate population of over 300 millions.

19. In this latter connection it may be observed that ordinarily under the above proposal the High Courts would come under the Home Department of the Government of India. But that is already an overworked Department, and the Member in charge who usually acts as Prime Minister and Leader of the House will normally be more interested in politics and activities of general administration than in the judiciary and Courts. This, however, would to some extent be mitigated if all the High Courts were placed under the Law Member, though as regards the question of finance, the main voice would be that of the Finance Member. This would also have the advantage of the affairs of the High Courts being dealt with by a practising lawyer, for the Law Member is usually chosen from the Bar. In that event it would no doubt be open to the Law Member to make suggestions to the various High Courts which would tend to uniformity so far as is practicable and desirable. The work, for instance, both of the Chamier Committee and the Rankin Committee were startling in the differences they disclosed in the practical working of the various High Courts. But the work of those Committees requires to be followed up, for all those differences can hardly be said to be essential.

20. One fear that has been expressed is that this change might lead to Judges being transferred from one High Court to another. This, however, would meet with strong opposition not only from the Judges themselves, but also in all probability from the Bar. At present no High Court Judge would be transferred without his consent, and there would seem no reason



why this desirable practice should be altered under the above proposal. The Judges would still as before be appointed by His Majesty the King, and accordingly their appointments would still be made through the Secretary of State.

21. Another fear that has been expressed is that the above proposal would involve the Bombay Judges losing certain privileges which they at present enjoy owing to the exigencies of local conditions, e.g. their existing occupation of Government bungalows, and the advantage of the 10 per cent. rule which, thanks to the efforts of the local Government, they at present enjoy. This is a serious practical matter, for a quiet house is essential for each Judge, and normal rents are so high in Bombay that suitable houses, cannot be obtained for a reasonable proportion of a Judge's existing salary. To take an extreme case, the economic rent of an unfurnished but modern Government bungalow to be paid by a High Court Judge was recently fixed by the Public Works Department at Rs. 2,000 per month or about £1,800 per annum at average rate of exchange. Seeing that the gross salary of each High Court Judge is only Rs. 4,000 per mensem before deducting income-tax, this clearly created an impossible position. Moreover, the Accountant-General objected that under section 104 (2) of the Government of India Act the local Government could not extend to any High Court Judge the advantages which its own officers enjoy, viz. that their rent of Government bungalows should not exceed 10 per cent. of their pay. Through the good offices of the Government of Bombay, this matter has now been rectified by a new rule issued by the Secretary of State. If, however, the present proposal was adopted, some arrangement would have to be made to prevent the Bombay Judges from being turned out of their existing homes, or deprived of the benefit of the 10 per cent. rule. Arrangements would also have to be made for the adequate housing at a reasonable rent of future Judges of the Court.

22. As regards the question of greater security raised in point 1, this can conveniently be considered along with points 3, 4 and 5 mentioned in paragraph 17. As far as attacks in the local Legislature are concerned, this High Court has so far been fortunate in having nothing said beyond the limits of fair criticism. But it is believed that such has not been the case in all Provinces. And it must be noted as a sign of the times that political adversaries are constantly endeavouring to remove their disputes to a Court of Law, and that this makes it all the more essential that the Judges should not be unfairly attacked. Thus motions have been made to one High Court or another to restrain the holding of the meetings of important Municipal Corporations, or to prevent the giving of an address or casket to the Governor of the Province, or to restrain the holding of a meeting of the Legislative Council of the Province. In the opinion of some Judges motions of this description have been far too freely entertained in the past, and are fraught with danger for the future, as they are liable to bring the Courts and the Legislature into direct conflict. It would, therefore, be a salutary rule if no High Court in the future should have power to interfere with the deliberations of any Legislative Body, apart of course from its judicial duty to determine in case of necessity whether any particular Statute passed by that Body was in fact *ultra vires*.

23. As regards protection from political or communal pressure in making appointments, it would seem probable that the central Government would be less exposed to it than a local one. The Montagu-Chelmsford reforms have only been in operation some 10 years, but already there are indications that political or communal support can demand its *quid pro quo*. Thus some proposals for appointments have been put forward which could not be justified on merit alone, and which appear to owe their origin to political or communal considerations. Particu-

Accordingly whether or no, the High Court is transferred to the Government of India, it would seem desirable that the High Court should be given some right of appeal as regards proposed judicial appointments to which it formally objected.

24. Another risk which should be guarded against is the possibility of some extremist or hostile local Government of the future harassing the High Court by the refusal of adequate financial supplies for its judicial and administrative work, and in other ways which need not be specified. As regards the High Court office staff, Clause 8 of the Letters Patent gives some protection in this respect. But it would seem a prudent precaution that a specific right of appeal to the Government of India, and if necessary to the Secretary of State, should be reserved to the High Court on any question of importance. In this connection an attempt has to be made to forecast the future and to anticipate the possible results of the increased voting powers of the people and its elected representatives and the increased Indianisation of the public services.

25. This consideration brings one to the general question of finance raised by the 5th point in paragraph 17. It is a question which particularly affects this High Court, for the finances of the Government of Bombay are said to be in such an unhappy condition that judicial reforms, however beneficial, cannot be effected unless they involve no increased expenditure, and that this condition of affairs is likely to last for many years to come. This High Court has no desire to restate here the specific matters on which at present it is unfortunately in disagreement with the Government of Bombay. But a general question of principle of some importance appears to arise, viz., whether in matters vitally affecting law and justice it is sufficient to state that necessary expenditure cannot be afforded. If, for instance, the High Court rightly thinks that the condition of litigation in either the High Court or a Subordinate Court will gradually become chaotic unless an increased judicial staff is forthcoming, can want of money be a sufficient answer particularly when the necessary money is available from the surplus net profits of the Court affected? It may indeed be questionable whether the High Courts should be regarded as a source of revenue at all to Government. It would seem sufficient if the civil litigant had to pay Government merely for the cost of obtaining the redress of his own wrongs, irrespective of the cost of criminal litigation. But it is difficult to see why he should be mulcted in addition with the payment of a net profit to Government to the relief of the general tax-payer. However that may be, it would seem likely that though a central Government would closely consider any proposal for increased expenditure, it would not feel hampered by any alleged lack of funds in arriving at a decision on the merits. Moreover the central Government would have their experience of other High Courts to assist them.

26. It may further be pointed out that the exercise by a local Government of its revenue powers might seriously prejudice the proper working of the High Court. For instance, the system of costs on the Original Side is substantially the same as in England, and differs essentially from the Court Fee system prevailing in the mofussil Courts. But to some degree the Original Side has been the subject of attack by certain politicians from the mofussil. The Government of India some 2 years ago raised the question whether the Court Fee system should be adopted in all High Courts. This and other High Courts strongly opposed the suggestion, and the matter was dropped. But quite recently the Government of Bombay has again raised the point with reference to the Bombay High Court alone, and this High Court has again stated its objections. If, however, the local Legislature was to pass a Bill on the subject, it is arguable that under present conditions it would not be *ultra vires*. It is re-

be protected against the possible exercise of any such power.

27. Another drawback is at present experienced as regards temporary additional Judges. The appointment of temporary High Court Judges presents in any event certain undesirable features, but these features are aggravated by delay and uncertainty in the appointments or reappointments. For some years past this High Court has been left in uncertainty as to whether two or even one additional Judge will be given for the current year. The Budget is so framed as to leave this in doubt, and in practice it is not until the middle of March or thereabouts that it is definitely known whether the necessary financial provisions have been passed. If, for instance, the local Legislature has effected a cut in some other direction, or has thrown out certain proposed taxation, then there is a serious risk of at any rate one additional Judge being dropped. Even assuming the Budget gets through, the Government of India has still to be consulted as to the appointments to be made. And in the result the last day of the April sitting may come and the Long Vacation begin without the existing additional Judges or Judge knowing whether they are to vacate their rooms in the High Court and revert to the Bar, or whether they are expected back on the Bench. A Judge's best work can only be done with reasonable security and peace of mind. And these financial methods are not best calculated to secure either. And they also produce an undesirable dependence on the views of the local Finance Department.

28. Turning next to objections to the proposal of the Associated Chamber of Commerce, these have to some degree been stated in considering the points put forward in support of the proposal. But there remains a strong objection for consideration, viz. the probable loss of the personal touch in the future relations between Government and the High Court. *Prima facie* the local Government should know its own Bench and Bar better than a central Government can. The opportunities of meeting too are better, for even a few minutes' friendly chat at some outdoor sport or social gathering may save two busy men much time, and prevent misunderstandings in official correspondence. It has to be remembered, however, that Government is only in Bombay for some four months of the year, and that even then it is much preoccupied first by the Budget, and then by the sittings of the Legislative Council. The rest of the year Government is at either Mahabaleshwar or Poona and both of these places involve return journeys of a length and at an expenditure of time which Judges cannot afford having regard to their pressing judicial and administrative work in Bombay. In practice then it is only during the cold weather that the High Court is likely to have the advantage of meeting the senior officers of Government. But having said that, the serious practical nature of the above objection still remains.

29. It has been further objected that a local Government would be more likely to give adequate time and attention to the views of its own single High Court than a central Government would do to any one of 7 or more High Courts placed under it. There is some weight in this, particularly if the central department was overworked. On the other hand this objection to some degree postulates that the central department might not do its duty. Even if that contingency can properly be contemplated, all the 7 High Courts would presumably be affected, and a united protest from them all would probably be more effective than would that of a single High Court subject to its own local Government.

30. It is further urged in objection that the Central Government would still have to consult the local

Government on many High Court matters, and that this would result in increased correspondence and delay rather than the reverse. To some degree this is probably true. But even under existing circumstances there must necessarily be a substantial correspondence between the central Government and the local Governments over the various High Courts. The only difference in the correspondence of this High Court would be that it would go direct to the Government of India and not to the Government of Bombay except in matters relating to the mofussil Courts.

31. There are doubtless other matters to be taken into consideration, but the dominating and rival contentions as this High Court sees them at present are on the one side the fear of the adverse effects which political changes may cause in the future security and efficiency of the High Courts, and on the other hand the love of their own Presidency with its past proud history and their natural preference to work with men whom they know and who know them. For the moment the High Court begs to be excused for giving its final opinion. As already pointed out it has not yet had the advantage of a discussion on the subject with representatives of its Government. It is possible that in any event its opinion will not be unanimous. But on the following points there will be no disagreement, viz. that in the view of His Majesty's Judges, the High Courts of India are one of the strongest supports of Government, and that anything that would tend to undermine them would be fraught with danger to Government itself. Agitators have fully recognised this in recent years when they started an attempt to boycott all the law Courts of the country. At present, however, the village people base their simple faith on the fact that the High Court stands between them and any attempted *zulum* on the part of the local policeman or executive official. But once that High Court is rendered inefficient, then tyranny or corruption or even incompetence may prove a source of widespread discontent which it would be difficult to stay, and yet if it was unstayed would probably result in some serious disaster. The right solution then of the present proposal is a grave decision to make, and requires a reasonable opportunity for its due consideration.

32. As regards the other proposal for the formation of a Supreme Court, this matter has more than once been mooted in the central Legislature and has hitherto been rejected. This High Court amongst others has already advised against it. The practical difficulties of providing a body of Judges all under 60 and yet with sufficient experience and ability to command the confidence of all the Provinces of India even when reversing the decisions of their own High Courts are very great, if not insuperable. The choice of a central spot with a central bar would be another difficulty. Possibly an increase in the age-limit to, say, 65, and a reduced length of sittings like the Privy Council might be palliatives. But a peripatetic Supreme Court corresponding to the High Court of Australia would probably invoke too great a physical strain on its Judges, to say nothing of the expenses of new Law Courts and accommodation in each Presidency capital. This High Court, therefore, does not support the present proposal for a Supreme Court.

33. In conclusion the Chief Justice and Judges wish to say that if the Indian Statutory Commission would like to have any oral evidence from this High Court, some of the Judges will be prepared to give it, provided their evidence can be taken *in camera* as was the case with the Chamier and Rankin Committees.

12th September, 1928.

1 November, 1928.]

Mr. H. W. EMERSON, C.I.E., C.B.E., I.C.S.

## LAHORE.

Dated, 1st November, 1928.

Morning.

PRESENT :

ALL THE MEMBERS OF THE COMMISSION (EXCEPT COLONEL LANE-FOX), OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND), AND OF THE PUNJAB PROVINCIAL COMMITTEE.

Mr. H. W. EMERSON, C.I.E., C.B.E., I.C.S., Chief Secretary to the Government of the Punjab.

1. *The Chairman* : Mr. H. W. Emerson, you are, as we know, Chief Secretary to Government. \* \* \* You have no doubt been in administrative charge of one or more districts as deputy commissioner before you came to the secretariat? Yes.

5. You are now Chief Secretary, but I believe you were formerly Financial Secretary of the Punjab Government?—Yes.

6. Will you turn first of all to chapter VIII of Part I (Descriptive Matter) of the memorandum\* prepared by the Government of the Punjab?

7. The practice here is to call the head of the district a deputy-commissioner instead of a collector, is not it?—Yes. He is also called a collector for revenue purposes and has also that title. In his executive capacity he is a deputy commissioner, and in his judicial capacity as head of the magistrates and responsible for law and order he is the district magistrate.

8. But he is ordinarily described as a deputy commissioner?—He is called a deputy commissioner, yes.

9. Are the districts grouped under a higher authority?—They are grouped under a commissioner.

10. I think in this province there are five such commissioners.—There are five commissioners, yes. They have five or six districts each.

11. Each has five or six districts?—Yes.

12. What is the importance of the part which the commissioner plays in the organisation?—He is an administrative and appellate officer, but not an executive officer. In regard to the administration of the criminal law and in his relations to law and order, he is supposed to be in touch with the progress of criminal work; that is to say, the criminal disposals of the various magistrates. The monthly returns are sent through him, and it he thinks that the number of pending cases is larger than it ought to be he can move Government, either directly, or after consultation with the deputy commissioner, for some increase in the staff, or he will draw the attention of the deputy commissioner to the fact that the criminal work appears to be getting out of hand. In regard to law and order, he is supposed to be in very close touch with the situation in the districts; and, in particular, in the case of communal or other movements which threaten the peace of any district in his division he acts as a co-ordinating authority between the Government and the district magistrates. A particular instance of that which I may mention was the Akali agitation. The districts mainly affected were those of the central Punjab, and I think practically every district of the Lahore division was affected. There the commissioner played an important part in co-ordinating policy. Then as a revenue officer he has certain appellate powers, he hears appeals from collectors in revenue and mutation cases. He also hears appeals in the case of appointments of malbardars (village headmen) and in the case of zaildars, who are more

important local officials than the village headmen. He also hears appeals against their dismissal.

13. That is, I suppose, appeals from the collector?—Yes.

14. I think that gives a general view of it. Is there anything further you wish to add?—I should rather like to add a little, because the question of the necessity for commissioners is frequently raised, and I should like to set out what the functions of a commissioner are. With regard to local self-government, he has certain powers of intervention and appeal in regard both to district boards and municipalities. The budgets of district boards and of the more important municipalities are subject to his sanction, and it is part of his duties to supervise the general working of local bodies. That work has increased very largely of late years, and it has almost overtaxed his capacity of dealing with it. In the sphere of general administration he is the channel of communication between the deputy commissioner and Government, and he plays a very important part in checking the tendency to over-centralisation. If the commissioner were not there, there would be no buffer between the local government and the district officer, and the complaint, which is now often made, that government does tend to centralise and perhaps to interfere too much would certainly have very much more ground, if there were no commissioner, than it has at present.

15. I appreciate that the deputy commissioner working in the district will have his duties to do, under the orders, of course, of the Government, not only in the reserved but also in the transferred sphere. That is so, is it not?—Yes, he has very definite duties under the transferred sphere.

16. In the case of a transferred subject with the minister at the head, does the minister send through the department the instructions to the commissioner on their way to the deputy commissioner, or does he short-circuit?—The ordinary procedure is that any instructions of Government to the deputy commissioner in any department should go through the commissioner.

20. On page 179\* I see this reference to the Irrigation department: "The Irrigation department" (technically known as the Irrigation branch of "the Public Works department"). I think that is a reserved subject?—Yes.

21. I hardly like to ask so elementary a question, but I do not wish to put a leading question. Is it an important department in the Punjab?—An extremely important department, both to Government and to the people. It is very important to Government from the point of view of revenue. The department has added very largely to the land revenue of the province, and also to the revenue derived from what are known as occupiers' rates, which are charges for the use of water.

22. Some of the Commission had an opportunity last March to see the very large works at the head of

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the Lower Chenab irrigation scheme. As I understand it, these great irrigation works really have a double reaction so far as finance is concerned; they not only earn what may be called a water rate, but they also influence the assessment of the land served by the irrigation scheme?—That is so. It is, of course, practicable and just that as soon as ordinary land dependent on rainfall is converted into irrigated land the land revenue should be increased, and that is invariably done. There is just one further point. The canals also have a very important bearing on the finances of the province because, as it happens, very large areas of Crown waste have been included in their scope, and Government has been able to sell those lands at very favourable prices. In fact, during the last few years the proceeds from the sale of Crown waste have very much reduced the need for Government to take loans for the purpose of capital expenditure either on canals or on other schemes.

23. When some of us went to Lyallpur it was pointed out there had been assisted migration to the district, and the land before the irrigation was effected had been to a large extent derelict?—That is so in the case of most of the canals, and not only the Lower Chenab.

24. I merely mentioned an instance I had seen.—Yes. The process is still going on; we are still colonising at the present time. We are now selecting colonists for the Sutlej Valley scheme of canals.

25. Is there considerable work to be done in the Punjab of a similar sort in the future?—When the lands on the Sutlej Valley canals are colonised, I think the scope will then be practically restricted to land that may be irrigated by two schemes. One is the Bakra Dam scheme, which would irrigate a large amount of land in the south-east of the province, and the other scheme is the Sind-Sagar Canal which, if it is found practicable to undertake it, would irrigate a lot of land in the north-west of the province. If those two schemes are ever taken in hand, then, when they are completed we shall have practically exhausted the scope for extension.

26. That is so far as construction goes. I apprehend a very great deal of strictness is necessary in administering these irrigation schemes when they have been carried out?—Yes.

\* \* \* \* \*

32. Tell us briefly how the Irrigation department is administered.—At the present moment there are three chief engineers, of whom one is concerned with construction. At the present moment I think the responsibilities are confined to the Sutlej Valley system of canals, which are under construction at present. The other two chief engineers divide the province between them, one taking the northern portion and the other the southern portion. In regard to irrigation, the chief engineers are also Secretaries to Government. Under them is a number of superintending engineers in charge of circles; they correspond more or less to the commissioners in the civil administration. Under the superintending engineers are executive engineers, who are in charge of divisions. The divisions do not correspond with districts; they are determined more by canals or branches of canals. The executive engineer within his division is responsible not only for the technical engineering side of the work, but also for the revenue side. He has under him various engineering officers on the one side, and he has also got under him some revenue officers on the other side.

33. Is that for collecting the water rates and so on?—Where the collection is left to them, yes. The collection is not generally done by the Irrigation department, but the assessment may be done by it; and when questions of supply arise, as to whether there should be any change, we will say, in the size of an outlet or in the rotation by which supplies are given, the revenue officer of the Irrigation department would investigate that side of the case.

34. Obviously with so large a staff, dealing (in

some cases at a distance from the centre) with what must be to the cultivator an extremely important matter, the supply of water to his fields, you have a matter where there may be very strong temptation on the side of the recipient of the water to try to influence its just distribution. Can you tell us whether as a matter of fact the administration of the Irrigation department (I mean, of course, in its lower branches) is carried on free from corruption?—I do not think any department of Government is carried on free from corruption. The amount of corruption depends to a considerable extent on the opportunities on the one hand and on the inducements which present themselves for bribery on the other. In the case of the Irrigation department, water is a very valuable thing, and there are inducements for the cultivator to bribe the officials concerned. So far as is possible, the officers in control of the department do their best to check corruption, but I think I am correct in saying there are complaints that there is considerable corruption in the department. I do not say those complaints are more numerous than in regard to one or two other departments of Government, but there are such complaints.

35. It goes without saying, of course, that everybody does his best to check it, and I have no doubt when the matter is brought to book to deal with it sternly?—Yes.

36. I make the reflection because I should like to know if there is any comment to be made on it. This has been throughout, of course, a reserved department?—Yes.

37. So what you have told us, so far as it applies to irrigation, goes to show that the fact that a department is reserved cannot be said to be, as experience shows, a guarantee against what you have described?—I do not think so, no. As I say, the corruption depends largely on the opportunities and the inducements.

38. I should imagine that water in a thirsty land provides considerable opportunities and very large inducements?—It does.

\* \* \* \* \*

39. \* \* \* Take the familiar question. In this province, has diarchy worked? Give us your own view about it.—I think from the first it was realised that it would be difficult to work diarchy strictly in accordance with the principles which were supposed to underlie it. It was found that the reserved and transferred departments touched each other at so many points that there must be constant co-operation and consultation between the ministers, on the one hand, in charge of the transferred subjects, and the members, on the other hand, in charge of the reserved subjects. It was also found in practice that the members wished, and found it useful, to consult the ministers, and the ministers found it helpful to consult the members, and gradually the tradition grew up that on important questions affecting Government there should be more or less a joint conference and joint discussion.

40. How has that worked out?—I think it has worked out extremely well.

41. May I see if I summarise the view correctly? If I follow, it might be put like this, that diarchy worked in watertight departments is very difficult to carry on, but if you could secure the sort of consultation and co-operation you describe, it is workable?—Yes; if you can secure the adjustments and compromises between the people responsible for working it, then it proceeds smoothly and without friction. On a question that touches both sides—perhaps the best example of that would be the Akali agitation—there must be co-operation.

42. I see it is referred to in the middle of page 192.\* Will you just describe shortly why you say that is a good illustration?—The Akali agitation was largely



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concerned with the management of Sikh places of worship and the endowments attached thereto. As such, it was a transferred subject, but as it developed it had very important reactions on Law and Order, and as such it vitally affected the reserved department of Law and Order.

43. So as I follow, the minister, who would be in charge of the transferred topic of religious endowments, could not handle the crisis so far as religious endowments were concerned as though it was his own special duty, but was bound to get into the closest contact with the member, who would be in charge of the department of Law and Order?—Yes.

44. That is the point, is it?—Yes; and eventually, when a solution was found, it was found by constant consultation between the two sides.

46. *Lord Burnham*: I have one question to ask in continuation of the witness's last piece of evidence. I should like to ask him whether he wishes us to understand, as his considered opinion, that in spite of any theoretical objections the system of diarchy has proved a workable and satisfactory compromise in Government in this province?—I think all I would be prepared to say is that owing to the reasonableness of the members and ministers who have had to work the system, it has been possible to work it satisfactorily and without friction.

48. *Captain Sikandar Hayat Khan*: May I ask you, with regard to the functions of the commissioners, whether the appeal lies always with the Financial Commissioner?—Do you mean in revenue cases?

49. Yes.—I am afraid I could not say off-hand, but I should say in most cases an appeal would lie to the Financial Commissioner, not in all cases.

50. With regard to the village headman, does the appeal lie to the Financial Commissioner?—Yes, generally.

51. In certain cases I believe there is an appeal from the assistant collector to the deputy commissioner, and then another appeal to the commissioner, and a revision or appeal to the Financial Commissioner?—Yes.

52. That means three appeals in revenue cases?—Yes, but the right to make appeal is not always exercised, and the fact that there is an appellate authority between the collector and the Financial Commissioner very much reduces the appellate work of the Financial Commissioner.

53. I suppose you were chairman of your district local board?—Yes.

54. Have you had any experience where the commissioner has turned down the budget of the district board?—I have had experience where he sent it back and asked for it to be reconsidered.

55. On a technical ground?—On the general ground of finance, that the local board was either over-estimating its income, including in it sources of income which were not there, or that it was exceeding its resources on the side of expenditure.

56. I believe you will bear me out that nearly all the district boards rely more or less on Government grants for carrying on their work?—I would not go so far as to say that. A considerable part of their income is derived from Government grants.

57. If I remember aright, there is only one district here in the Punjab, and that is at Lyallpur, which is solvent without the help of the Government grant?—Quite so.

58. All these grants are allocated by the Government?—Yes.

59. And sent to the commissioner. He has got no hand in distributing those grants or fixing them amongst the districts. It is the Government who decides about the allocation of those grants?—Well, of course, these are questions which Mr. Beazley would be the more proper person to deal with, but I think I can give some answer to them. When I was Finance Secretary, the duty was definitely imposed

by Government on the commissioners to see that the grants are properly expended, and are not diverted, as is not infrequently the case, to purposes for which they have not been given, and in the recent examination of the resources and requirements of district boards I think I am correct in saying that the commissioners have taken a not unimportant part.

60. That check over expenditure is also done by another agency, and that is the Local Fund Audit department?—I think the functions of audit are rather different from the functions of supervision by the commissioner.

65. *Captain Sikandar Hayat Khan*: With regard to diarchy, did I understand you correctly that it was not the merit of the system, but the personal element which made a success of it in this province?—That was the impression I desired to convey; or, rather, that if the personal factor had not contributed towards the adjustment required by diarchy it might easily have broken down.

*Lord Burnham*: I understand it entirely in the latter sense.

66. *Raja Narendra Nath*: At page 190,\* para. 36, you describe the ministers and the members that have been appointed since the Reforms scheme was introduced?—Yes.

67. In each council, each community was represented either in the Executive Council or in the ministry?—Yes.

72. Will you give us your view as to paragraph 42, page 194\*?—I was then a district officer, and I am afraid I had no knowledge either indirect or direct of that matter.

*Raja Narendra Nath*: This fact was brought to the notice of Government by a memorial submitted by 26 members of the council in August, 1922, and some correspondence took place between me and Government. May I put that on the file, sir? The fact is not mentioned in the Report.

*The Chairman*: Perhaps you will let me see the file,† and I will see what the fact is.

*Raja Narendra Nath*: Very well, sir.

73. *Dr. Narang*: With respect to the commissioners, do you know that in the council several times speeches have been made asking for the abolition of the office of the commissioner?—That is so, yes.

74. These powers which the commissioner exercises he has exercised both before and after the introduction of the Reforms scheme?—That is so.

75. No reduction in his functions has taken place since the appointment of ministers for local self-government, or other ministers?—Not so far as I can remember at the moment, but I would like to make it clear that the view of Government is that since the Reforms both his responsibilities and his usefulness have very much increased.

76. Has it not been said very often from the council benches that he is only a sort of post office between the Government, whether on the reserved side or on the transferred side, and the district officer?—That has been said by some members of council from time to time. It has not been accepted by other members of council, and it is not accepted by Government, and the experience of Government is that as soon as a commissioner begins to treat himself as a post office difficulties begin to occur in his districts.

77. But would you admit that there is a great deal of duplication on account of various papers passing through the commissioner's hands, and consequently delay?—There is a great amount of duplication in some departments of Government. Of course, there must be, when you have channels

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† *Vide* Appendix, page 68.

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through which correspondence must pass, but the extra work involved and the extra expense are not necessarily great. Nobody requires a commissioner to do more than endorse routine matters, but when there is a question that comes up on which his advice is valuable and is required, then he is supposed to send that up with his own views and opinions.

78. One question about financial initiative. It is intimately connected with the distribution of portfolios, and therefore I shall first ask you whether the ministers in charge of transferred subjects have the power of initiating expenditure. I hope my question is clear?—What do you mean by “initiating”?

79. Suppose a minister wants to introduce some scheme for the benefit of the nation, a nation building scheme, can he earmark a certain amount of money out of the total revenue of the province for that purpose without taking authority or approaching the Finance Member or the Governor?—Neither the member nor the minister can earmark. Whether it is ordinary or new expenditure, no authority can pass expenditure where voted supply is required except the legislative council.

80. Excuse me, that is really not clearing up the whole position. Is there any difference in the matter of spending any portion of the revenue between the powers of the Finance Member, for instance, and the Minister for local self-government?—None whatsoever, the difference being that the Finance Member as such—I am not referring to him as being also in charge of the Home portfolio—has practically no powers at all of sanctioning expenditure.

81. That I know, that everybody knows; but making original proposals, even?—The Finance Member, no. It would be for the minister in charge of a particular department to put forward a scheme for consideration involving expenditure.

82. Put it before whom?—It would then be necessary for that scheme to be examined by the Finance department, which, after very careful examination, would advise on it. I think that is laid down in the Devolution Rules of the Government of India Act.

83. They can throw out the proposal?—No, the Finance department has no authority to throw out a proposal at all. They might advise against it. The minister concerned if he did not wish to accept the advice of the Finance department, could then take the scheme up to the Governor; it could be discussed in council and that would be the ordinary course of procedure. The Finance department has no authority whatsoever for throwing out the scheme in the sense of final rejection. They may advise in favour of or against the scheme.

84. You mean to say that a minister other than the Finance Member can put in a scheme directly before the Council for the sanction of any funds?—Not until after the scheme has been examined by the Finance department and the advice of the Finance department has been given.

85. *The Chairman*: When you use the word council, what do you mean?

*Dr. Narang*: The Punjab Legislative Council.

86. *The Chairman*: Not the Executive Council?

*The Witness*: I mean the Executive Council.

\* \* \* \* \*

87. *Dr. Narang*: What is the constitution of the Finance department? Does it mean the Finance Member only or anybody else beyond the Secretaries? What is the Finance department here corresponding to the Treasury in England?—There is first of all the honourable Member for Finance; there is a Secretary and in addition a financial adviser who is for all practical purposes an additional secretary. There is a deputy secretary and there is of course a number of clerks and assistants and so on.

88. What I want to know is whether any member of the Government other than the Finance Member forms part of the Finance department?—No.

89. Only the Finance Member and his secretaries form the Finance department?—Yes.

90. Can you give me one instance in which a proposal initiated by a member of the Government in charge of a transferred subject and rejected by the Finance department was sanctioned by the Executive Council as such?—I could not give you the examples here without revealing the proceedings of the executive council. I cannot do that. But I can tell you as Finance Secretary I saw a considerable number of cases in which there was a difference of opinion between the Finance department and the member or minister—it was not necessarily always a minister. The ordinary course pursued before it went into the Executive Council was for the Finance Member and the minister concerned to discuss the case between themselves and as a result of that discussion it was very rare indeed for the minister himself to press for that case to go into the executive council.

91. Thank you. There is one more question in connection with this matter. There is a Standing Finance Committee of the legislative council?—That is so.

92. Is that consulted before the Finance department arrives at any decision?—Occasionally the Finance department will think it desirable to take the advice of the Standing Finance Committee on a particular scheme, but not as a rule.

93. Not as a rule?—It has the power to refer a scheme to that committee. It would be quite impossible to work in this way as a rule. The Finance department is examining schemes of this sort every day; it spends its whole time doing it, and the work of Government would be held up if every scheme were to be referred to the Standing Finance Committee.

94. The function of the Finance committee of the legislative council extends only to the consideration of the proposals which the Finance department may choose to put before it?—Not which the Finance department may choose. The prior consideration of schemes is limited to that, but the Standing Finance Committee's chief and most important function is to advise on schemes that have been accepted by Government (not by the Finance department) and have been included in the schedules of new expenditure and which it is proposed to lay before the legislative council. Before they are laid before the legislative council, the advice of the Standing Finance Committee is taken on these schemes.

95. But not before the Government has approved?—Not generally. If there is a case which is a doubtful one, the advice of the Finance committee is taken.

\* \* \* \* \*

97. With reference to the deputy commissioner is it a fact that he is the collector of the district?—Yes.

98. District Magistrate?—Yes.

99. Appellate court in criminal cases?—Yes, in some cases.

100. Also an appellate court in some revenue cases?—Yes. He may be an original or appellate court.

101. As an appellate court he hears appeals in some revenue and also criminal cases?—Yes.

102. He is also the chief excise officer of the district?—Yes.

103. Also the registrar of the district?—Yes.

104. Also the head of the Court of Wards?—Yes.

105. He is also the officer who has to deal with cases arising under the Land Alienation Act, the turning of sales into mortgages, and so on?—Yes, as collector.

106. He is also the officer who deals with questions arising under the Stamp Act?—Yes.

107. He is also the head of the police?—For certain purposes.

\* \* \* \* \*

109. The superintendent of police, who is the chief police officer in the district, may have to act under his orders in most cases?—Not in most cases, in certain cases.

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110. He is also a jail visitor, not on his option but one of his duties is to pay visits to jails?—Yes.

111. He is also the head in many cases under the Local Self-Government Act or has a great deal to do with the municipal government and the district board government?—He is generally the chairman of the district board and he has definite functions of supervision over all local bodies in his jurisdiction.

\* \* \* \* \*

114. *Sardar Ujjal Singh*: With regard to the commissioners I would ask a question. Do you know that a committee of the Punjab Legislative Council was appointed to go into the question of retrenchment. That committee recommended that the posts of commissioner should be abolished or at any rate should be reduced to three? Is that a fact?—Yes.

115. Is it a fact that the Co-operative department is mostly official-ridden and it leaves little initiative to the members of the societies themselves?—I have no reason to suppose that is so.

116. You very frankly stated that there is no department of the Government in which corruption is not prevalent. Has corruption increased or decreased during the last five years?—I think that question is specifically dealt with in chapter X relating to the services, page 293\* and paragraph 17.

\* \* \* \* \*

117. *Sardar Ujjal Singh*: \* \* \* (To the witness)—You said that diarchy could work if both sides of the Government, that is, the reserved and the transferred sides, could accommodate themselves?—I do not think that is what I have said. What I said was that on the whole it has worked in this province with smoothness and without friction, largely because of the reasonableness and the willingness to compromise of those who have had to work it. I think that is what I said.

\* \* \* \* \*

119. Can the Finance committee advise the Government in favour of incurring expenditure on any particular scheme?—So far as I know that is not one of the functions within the powers of the Standing Finance Committee. But I think if the Standing Finance Committee expressed a desire that a particular scheme involving expenditure should be discussed in that committee, if there are not very good reasons to the contrary, it would be found possible to agree to their request.

120. But has there been any case in which the Finance Committee has advised the Government for expenditure on a particular scheme?—So far as I know, there is no case in which the Standing Finance Committee has asked Government to be allowed to discuss a scheme of expenditure initiated by them; the question has not arisen.

\* \* \* \* \*

124. *Rai Sahib Chaudhri Chhotu Ram*: Mr. Emerson, do you think that to the smooth working of diarchy in this province the reasonable attitude of the legislative council has always been a factor?—I think it has been a very important factor.

125. With regard to the question of the commissioners being of help to the deputy commissioners, have you ever consulted the deputy commissioners as to what they think of the commissioners as to their usefulness?—Without looking through the files I cannot give you a definite answer to that. My own recollection is that when I was deputy commissioner of Multan, I was asked to give my opinion on the general question. In fact, I actually know that I was asked and I gave my opinion emphatically that the commissioners should be retained. And one reason why I gave that opinion, which I had not the opportunity of mentioning before, is that the commissioner being a senior experienced officer is most

valuable in giving advice and assistance to young officers—not always of the civil service for deputy commissioners are of the provincial civil service also—and at the present time when a large number of our districts are in charge of rather junior and inexperienced officers, both the Government and those officers find the commissioner most valuable.

126. Have any cases come to your notice in which deputy commissioners have complained about the inordinate delays that occur in the commissioners' offices?—I cannot remember any such case. Cases of delay do occur in the commissioners' offices and I am afraid in Government offices as well. But these cases are certainly the exception and not the rule.

\* \* \* \* \*

128. *Rai Sahib Chaudhri Chhotu Ram*: Can you give us the powers which a minister possesses in order to maintain control and discipline over the members of the services who serve under him?—That relates to services.

\* \* \* \* \*

*Rai Sahib Chaudhri Chhotu Ram*: My point is that the minister has very small powers, if any, to maintain discipline and control over the members of the services who serve under him.

129. *The Chairman*: What do you say to that, Mr. Emerson?—He would have to exercise power of control and discipline through the heads of the departments concerned.

*The Chairman*: Let us take an instance—the Minister of Agriculture. Let us assume—I think that is the *Rai Sahib's* suggestion—let us assume an occasion arises when he thinks that he ought to exercise discipline over some subordinate in the agricultural department. I am not quite clear what the point of criticism or interest is.

*Rai Sahib Chaudhri Chhotu Ram*: I will just quote one specific instance.

*The Chairman*: We do not want to mention names.

130. *Rai Sahib Chaudhri Chhotu Ram*: Not names, sir, but only an instance. Is it not a fact that a minister cannot even censure a member of the provincial service or an Imperial service without the concurrence of the Governor?—That is so.

131. *The Chairman*: Can a member of the executive council?—He cannot, he is exactly on the same footing.

\* \* \* \* \*

142. Now, Mr. Emerson, you have given a long list of work that is given to the commissioners. I take it that these are the paper duties, i.e. the duties under the various Acts, regulations and so on?—I attach less importance to the duties that they have under certain Acts, i.e. their statutory duties, than I do to their general duties of advice and supervision.

143. I therefore take it that you base your opinion regarding the retention of the commissioners on the broad ground that being a senior officer, the commissioner is necessary to advise the district officers?—He is useful.

144. Is not that a temporary phase in your province? We were told that there were a large number of junior officers serving in your province and it was therefore necessary to have the advice of the commissioner. Do you not regard that only as a temporary phase?—We hope it is only a temporary phase.

145. Therefore this is not a question of retaining the commissionership permanently? The mere fact that at present you are so situated that you need the advice of the commissioners does not touch the large question whether the retention of commissioners is justifiable or not on *a priori* grounds?—What I said was that when there are more junior officers in charge of the districts the advice and assistance of the commissioners are more valuable. I did not say that their advice was neither necessary nor valuable when senior officers hold charge of the districts. Even then their advice is still necessary and valuable.

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[Continued.]

146. Can you give us a concrete example to show that the absence of such advice would be detrimental to the administration of the division or the district?—Such examples are constantly cropping up.

147. Can you give me one or two concrete examples?—We had some trouble during the summer in the south-east of the province. The advice and assistance of the commissioner was very valuable at that time.

148. To whom?—Both to the Government and to the district officer.

149. You think that the district officer is not competent to give that advice?—I am making no implication against any district officer.

150. I merely put it to you whether that advice was not superfluous and whether the district officer himself could not have given that advice in the case which you have mentioned?—He might have done, but might have done the wrong thing.

151. It is equally possible that the commissioner might have done the wrong thing?—Quite so.

152. Consequently nothing turns on the fact that you have got a person who can give advice?—Being an experienced officer the commissioner is more likely to give the right advice.

153. With regard to Section 30, is it not a fact that the Legislative Assembly when dealing with the Criminal Procedure Code Amendment Bill of 1923 wrote to all governments asking them to reconsider the question whether the magistrates empowered to try cases under section 30 should not be done away with and to state whether the modern system of criminal procedure could not be followed in all the provinces?—Yes.

154. I only want to know whether the powers under section 30 are exercised not only by the deputy commissioners as a rule but also by those who are specially empowered?—Yes; they are not confined to the district magistrates.

155. As regards the appellate powers, are they given to senior magistrates?—Not in many districts.

156. But in some districts they are?—I should say that at present there are additional district magistrates with appellate powers in six or seven districts.

157. The principle has been introduced and is in force?—Yes.

158. As regards corruption in the Irrigation and other departments of Government, do you think that it runs through the higher ranks of the service?—No, certainly not.

159. It is only confined to certain ranks?—Yes. I want to make it quite clear that it is not general even amongst the subordinates. I do not wish to suggest that it is general amongst the subordinates or that it is worse in the Irrigation department than in several other departments.

160. Possibly the temptation in the Irrigation department being greater, there is more corruption in that department, other things being equal?—I would say there are more complaints in regard to that department.

161. But they are all confined to the subordinates of the department?—The complaints are generally against the subordinates.

162. Consequently the question does not arise whether it is a reserved or transferred department?—I do not wish to suggest that it is either better or worse because it is a transferred department or otherwise.

163. I only wish to know whether it is confined to the lower ranks only and does not extend to the superior services of the Irrigation department?—Yes.

164. *Sir Zulfiqar Ali Khan*: You are aware that there is a general impression in the country that the retention of the commissioners in the scheme of administration is not of any value? Do you think that in spite of this idea on the part of the general public you should still retain the commissioners in the scheme of administration?—My recollection is that this question was last debated upon in the council—I speak subject to correction—and that the motion was either withdrawn or defeated.

*Chaudhri Zafullah Khan*: The motion was ruled out of order on the ground that under the Land Revenue Act the Government was in duty bound to appoint commissioners and that unless the Act was amended this motion could not be allowed. Then there was a discussion with regard to the staff of the commissioners.

165. *Sir Zulfiqar Ali Khan*: You think that in the interests of good administration the retention of the commissioners is necessary?—I do, yes.

166. You think that the increase in the volume of work at the head-quarters necessitates the desirability of keeping these commissioners as a necessary link between the local Government and the deputy commissioners.—I think that if you do away with the commissioners the tendency to centralise would be much more obvious than at present; it will be much greater than at present.

167. Do you think that in order to supervise the deputy commissioners it is necessary to have an intermediary officer between the local Government and the deputy commissioner?—I do not think I have said at any time that the chief function of the commissioner is to supervise the deputy commissioner.

168. Supposing the deputy commissioner is acting in a manner in which the public are not quite satisfied and supposing complaints are made to the local Government against him, do you think that the Government can themselves deal with them?—It will be extremely difficult for the local Government to find any officer who would examine into the truth or otherwise. The Government at headquarters would have nobody to send. Under the present circumstances the commissioner would be the obvious person to whom the Government would refer for further information or for an enquiry if an enquiry was desired.

169. What I wanted to know definitely was that under these circumstances direct dealing by the local Government with the deputy commissioner would not be advisable?—In the opinion of Government it would not be advisable under the circumstances.

170. In the Irrigation or any other department you think that corruption is a necessary evil?—I do not think I have said so.

171. Corruption could not be altogether eliminated?—I think the view generally taken by Government is that Government agency alone cannot eliminate it. It is mainly a question of sound and healthy public opinion. I do not think that Government has ever said that it cannot be eliminated.

172. With regard to diarchy, you think that the system has worked very satisfactorily?—I do not think I said so. I said, so far as I remember, that the system of diarchy, as it has been worked in this province, has worked with smoothness and without friction largely because of the reasonableness of the people who have had to work it and I would like to add—it is a very important factor which I did not mention—that it is also due to the personality and the ability of the Governors who have been in charge of the province.

\* \* \* \* \*

176. *Sardar Shivdev Singh Ubeeroi*: With regard to corruption, in which department is it worse, the Police or the Public Works or the Irrigation?—I cannot say in which department corruption is worse. I do not think anybody knows.

177. What is the general impression among the public?—I really cannot say what is the general impression.

178. You said that it is general in the subordinate ranks of the Irrigation department?—I do not think I confined my remarks to the Irrigation department, all services.

179. Do the sub-divisional officers of the Irrigation or the Public Works department come in the subordinate services or in the higher grades?—I should perhaps explain this just to avoid any misunderstanding. When I used the term "subordinates" I



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[Continued.]

used it in the non-technical sense and meant the low paid members of the services. I did not use it as a technical term. Our services are divided into all-India, provincial and subordinate services. The subordinate services include a large number of officers who are fairly highly paid. I do not for one minute wish to suggest that among the members holding responsible posts in the subordinate services corruption was general. I should like that misunderstanding cleared away.

180. Does it come to this that among the low paid staff of the service corruption is most rife?—The complaints are to that effect.

181. Is it not on account of the fact that they are low paid or is it on account of the fact that they are in a power to give undue benefit to the man who offers the price?—I should say a combination of all these factors.

182. *Sir Arthur Froom*: With regard to diarchy, you said that it worked with smoothness and without friction owing to the reasonableness of the gentlemen forming the Government, the members of council and the ministers.

*The Chairman*: And the general attitude of the members of the legislative council and the public?—Yes.

187. *Captain Sikandar Hayat Khan*: Can you tell us whether the ministers acted on the principle of joint responsibility during your experience of the council?—I am not aware of it personally. I am not aware whether there was a private arrangement or there was not a private arrangement of that kind.

## APPENDIX.

(*Vide* Dewan Bahadur Raja Narendra Nath's remark below question 72 (p. 64).)

To,  
Sir,  
His Excellency the Governor, Punjab.

We the undersigned members of the Legislative Council approach Your Excellency to point out certain defects in the working of certain transferred Departments—defects which have come into prominence since the introduction of the Reforms Scheme, and respectfully suggest certain remedies which we hope will receive proper consideration by Your Excellency.

2. The memorable declaration in Parliament of 20th August, 1917, and subsequent announcements by His Majesty the King-Emperor, lay down the policy of gradual development of self-governing Institutions in India, with a view to the progressive realisation of responsible Government. Self-governing Institutions mean representative institutions. Government through them is Government through representatives chosen by the people and responsible to them. This system of Government should not be allowed to degenerate into one causing communal rivalry or hatred, by giving undue advantage to a community in majority over communities in minority. To guard against this evil His Majesty, in the instructions issued to Governors, thought it fit to commit to their care the interests of minorities. (Para. (7) (2) of the instructions.)

The heterogeneous nature of the Indian population is a well known fact, and has necessitated the tentative introduction of communal representation which the report on Constitutional Reforms describes as "opposed to the teaching of History, perpetuating undesirable class divisions."

3. The Sikhs and Hindus form separately very important minorities, both in the population and in the Council; and there is grave danger that a minister supported by a majority which consists mainly if not solely of Muhammedans, may launch on an administrative policy, prejudicial to the interests of the minorities, a policy which cannot infuse into the people "such habits of political action and respect for such conventions as will best and soonest fit

"them for self-Government." (Preamble to His Majesty's Instructions.)

We have every confidence in the assurances given by the Parliament and by His Majesty that responsible Government will be fully developed in India at no distant date. The demand for rapid advancement towards the goal is spreading and may before long become irresistible. Hesitancy in changing the trend of administration which is now proceeding on wrong lines, and is aggravating or perpetuating class divisions, may lead to serious consequences.

The working of mutually adverse forces leads to rupture or breakage of particles in the physical world, and the result under similar conditions in the social or political world is analogous. The desire for self-Government on the one hand, and fresh obstacles in the way of harmony between different communities, may lead to revolution and anarchy. It would be the height of unwisdom to do nothing to check a policy which carries the idea of class divisions to unreasonable lengths. The realisation of this truth led His Majesty to enjoin on your Excellency the desirability, nay, the necessity, of creating right habits of political action. It would be a travesty of Representative Government if a minister supported in the Council by a majority consisting mainly of one community frames a policy prejudicial to the interests of minorities.

5. There are certain orders of the Honourable Minister for Education which have created serious discontent among non-Muslim communities. We enumerate some of them below:—

1. The order introducing communal representation in admissions to Medical College and Government College, in place of the former rule which regulated admission solely on merit.
2. The orders dispensing with the services of non-Muslim temporary Assistant Surgeons, without regard even to the Military Services of some of them.
3. Orders as to appointments, permanent and officiating, in the Education Department.

6. Medical College is an institution which prepares young men for the medical profession. To those who pass there is no guarantee of Government appointments. Government College is an institution for liberal education. Its alumni may take up government service, any of the liberal professions, or may take to trade, or any business in life. Admission to this college is sought by young men belonging to respectable families who do not care to go to denominational colleges. The Indian people are on the road to responsible self-Government; the old traditions of a patriarchal system of Government should change; in any case, it is a mistake to carry class divisions to unreasonable lengths, and to introduce them for admission to colleges in which the character of coming generations is to be formed. Habits of concerted action are not likely to be created in young men who, at the very threshold of their University career, learn lessons of class division and consequent class rivalry and hatred. Does Your Excellency think that Your Excellency's Government will be acting up to the letter and spirit of His Majesty's Instructions if these orders are allowed to stand? We hope that Your Excellency will agree with us that this is not the way in which young men should be brought up from whom political action as "will best and soonest fit them for self-Government" is to be expected. Whether there is any justification or not for fixing percentages on a communal basis, for recruitment in public services, we strongly protest against allowing the rule of communal proportions to govern the admission of young men to educational institutions. We therefore earnestly request, that this order of the Honourable Minister, which carried the questionable principle of communal divisions to absurd lengths, and which violates flagrantly the letter and spirit of His Majesty's Instructions, for the faithful carrying out of which Your Excellency alone is responsible, should be cancelled forthwith. A reference to para. 5 of the report

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[Continued.]

of the Joint Select Committee will show that "in circumstances indicated in the instruments of instructions" Your Excellency can act against the advice of ministers and even of the Executive Council.

7. We further request that Assistant Surgeons who volunteered for military service and whose offers were accepted should receive preferential treatment to all others in respect of permanent appointments, and that vacancies occurring in future should be filled up by them in order of seniority before fresh recruitments are made to the Medical Department from the alumni of the college. With regard to officiating and permanent appointments, made in the Education Department, our prayer is that a board of 4 non-official members of the Council be appointed, consisting of a Hindu, a Muhammedan, a Sikh and a Christian, with one European official, to examine the cases of all officiating and permanent appointments made, with a view to ascertain if these involve any unjust supersession of existing incumbents, in the various grades of the service, in order to report to Your Excellency that the deserving men already superseded should no longer be superseded and should get officiating or permanent appointments at the earliest opportunity.

8. Government may be at liberty to dispense with the services of the holders of temporary appointments at any time that it chooses, but it is unjust and unfair to pay no consideration to the highly commendable sense of patriotism and loyalty of those who at a time of imperial need volunteered for service abroad. We understand that there was explicit promise of preferential treatment held out to those who undertook the risk and danger of military duty. We have already observed that we may not at present find fault with the rule of communal proportions in services within reasonable limits but we cannot lay too much stress on the desirability of guarding vested interests. If the Assistant Surgeons who volunteered for military service had known the strict enforcement of the rule of communal proportions, they would not have volunteered in large numbers. They would have observed these proportions in their voluntary offers. Amongst those who had the courage to come forward the Sikhs would not have exceeded the proportion of 20 per cent. Similarly for educational services; the present incumbents of offices in the various grades did not and could not foresee the operation of the rule of communal proportions on their promotion. They entered service at a time when this rule did not exist. They should not be allowed to suffer by the introduction of this rule. It is a well-recognised principle of administrative justice that when changes are made in the conditions of service scrupulous regard is paid to the interests of the present incumbents. An instance in point is the option, given to members of the Indian Civil Service, to retire on proportionate pension if they do not wish to serve under conditions introduced by the Reform Scheme. In the case of the members of the Educational Service changes introduced affect their promotion, taking away from them the reward of their exertion and good work in the past.

9. Circumstances have come to light which enable us to raise a constitutional point of vital importance. It is an essential requisite of the dyarchical system of Government that its constituent parts should work in perfect harmony with one another. As to the relations between that part of Government for which the Governor is responsible to Parliament, and the part which is to be carried on with the advice of Ministers responsible to the Council, we find the following passage in paragraph 5 of the report of the Joint Select Committee. "The Committee will indicate in the course of this report, how they visualise the relations between the two parts of the Government, but they wish to place in the forefront of the report that they see no reason why the relations should not be harmonious and mutually advantageous. They regard it as of the highest importance that the Governor should foster the habit of free consultation between both halves of

"his Government and indeed that he should insist upon it in all important matters of common interest."

As to the mutual relations of ministers we find the following observation of the Joint Select Committee on clause 4 of Government of India Act, 1919 (9 and 10 Geo. V., Ch. 101) :—

"The Committee are of opinion that in no province will there be need of less than 2 Ministers, while in some provinces more will be required. In these circumstances they think that it should be recognised from the commencement that Ministers may be expected to act in concert together. They probably would do so; and in the opinion of the Committee it is better that they should and therefore that the fact should be recognised on the face of the bill."

The gist of the whole report and the essential feature of the reforms scheme is that "for all important matters of common interests" the entire Government is to be considered as an indivisible and inseparable whole. We have not the least hesitation in saying that to carry to extreme limits the principle of communal representation which the framers of the constitutional reforms introduced with considerable hesitation is an "important matter of common interest" on which should be brought to bear the "joint wisdom" of the whole Government.

We have noticed that the Honble. Lala Harikishan Lal, in his evidence before the Frontier Committee, expressed disapproval of the principle of communal representation. He cannot possibly be conceived to be the supporter of a policy which applies the principle of communal representation to admissions to educational institutions, and in respect of appointments, applies it in complete disregard of the rights of existing incumbents of offices in various grades, and ignores the just right to preferential treatment of those who rendered highly commendable military service. The orders of the Minister referred to in paragraph 5 (1), (2) should be set aside on the additional and weighty ground that they have not the unanimous support of the Ministry as a whole.

10. To the course proposed in the preceding paragraphs we anticipated an objection. Your Excellency will probably require us to move a resolution or resolutions in the Council, covering all or some of the matters mentioned in this representation. There is, however, one difficulty in the way of our doing so, and unless it is removed it is futile for us to seek any remedy from the Council. In paragraph 233 of the report on Indian Constitutional Reforms the following passage occurs :—

"We wish to see the convention established, though we propose to lay down no rule on the point, that on the subjects transferred to the control of Ministers, the official members of the Legislative Council would abstain from voting, and leave decision of the question to non-official members of the Council. On other matters, except on occasions when the Government thinks it necessary to require their support, the nominated official members of the Legislative Councils should have freedom of speech and vote."

In the Punjab we have failed to observe any freedom given to officials as to the manner in which they should vote. In their solicitude to secure harmonious working between the transferred and reserved departments, they give their support to every motion put forward by the ministers, thereby unconsciously creating a pillar of strength for a minister who chooses to give communal bias to his policy. Numerous instances could be given from the Council proceedings which would convince Your Excellency that officials have no freedom of speech or vote. We need not worry Your Excellency with details. The controversy carried on in newspapers with regard to the policy of the honourable Minister for Education must have come to Your Excellency's notice. It is necessary to make a thorough inquiry into the matter. The Board that is proposed, will be quite independent and free from communal bias. In conclusion, we

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[Continued.]

give expression to a hope that Your Excellency will receive and consider this representation in the spirit in which it is conceived and presented. It is needless to remind Your Excellency that all political schemes, conventional or constitutional rules, should be so worked as to allow no violation of fundamental principles of Justice, and to create no obstacle in the way of political advancement of society.

RAJA SINGH  
SANGAT SINGH  
RAGHBIR SINGH  
HARDIT SINGH BEDI  
LAL SINGH BODHI  
GOPAL SINGH (Labana)  
BALWANT SINGH  
HARA SINGH BEDI

NARENDRA NATH  
SEWAK RAM  
HARI CHAND  
THAKAR DAS  
PANNA LAL  
BANS GOPAL  
MOTI LAL (Kayasth)  
ATMA RAM  
DAYA RAM  
KHARAK SINGH  
LAJPAT RAI  
MANOHAR LAL  
GANPAT RAI  
BELI RAM  
GHASI RAM  
MISSAR MELA RAM  
UTTAM CHAND  
BALBIR SINGH (Yadhava)

D.O. No. 3797-S.

Dated Simla, the 5th of September, 1922.

My dear Raja Sahib,

I have laid before His Excellency the Governor (Sir E. MacLagan) the representation signed by eighteen Hindus and eight Sikh members of the Legislative Council which you handed to me in Lahore on the 10th of August.

2. In that representation you have suggested in regard to certain orders passed by the Punjab Government (Ministry of Education) regarding admissions to two institutions—the Medical College and Government College—that His Excellency should interfere in accordance with the directions contained in the Instrument of Instructions from His Majesty the King-Emperor in which it is laid down that it is His Excellency's duty to protect all interests from unfair treatment. In regard to orders affecting appointments in the Education Department, you ask that a committee of members of the Legislative Council should be appointed to examine all such appointments made and should report to His Excellency. You have further asked that Assistant Surgeons who volunteered and were accepted for military service, should receive preferential treatment to all others in respect of permanent appointments, and that vacancies occurring in future should be filled up by such Assistant Surgeons in order of seniority before fresh recruitment is made to the Medical Department.

3. In regard to the first of these requests, I am desired to point out that while under the Instrument to which you refer it is the duty of the Governor to protect all interests from unfair treatment, it is also his duty under the same Instrument to secure the

advancement of classes which are educationally or otherwise in a backward condition. It may not be always easy to reconcile these two duties, but in the two orders mentioned by you there appears to His Excellency to be nothing to necessitate his departing from the ordinary principles regulating the constitutional relations of the Governor to a Minister who has the support of the Legislative Council. The action suggested in your memorial is of a kind which could only be justified by circumstances of a much more urgent and convincing character than those alluded to in your representation. The orders, moreover, to which you refer, were passed nearly a year ago and one of them is merely a modification of a similar order passed by the Local Government in June, 1920.

4. In respect of the appointments made in the Education Department certain information was placed before the Legislative Council on the 11th August last in reply to questions 1832-1834 and certain data were published by this Government in a *communiqué* dated the 23rd August. There is nothing in the information there given or in any further information before Government which give His Excellency grounds for holding that the appointment by His Excellency of a Committee of the kind you suggest is called for. He regrets therefore that he is not prepared to act on the suggestion which is made in that representation.

5. With reference to the suggestion made in your third proposal I am to say that the promise of preferential treatment applies to those Assistant Surgeons who volunteered under the Medical Department circulars in 1917, and it is understood that it is to them that you refer. It is believed that the interests of the Assistant Surgeons in question have (except so far as concern the case of five non-volunteers who were restored to their original positions on the list of temporary Assistant Surgeons for very special reasons) been already safeguarded in the manner suggested, vacancies having been filled up by them in order of seniority without reference to communal considerations. If, however, there should be any instances in which this is not believed to be the case, I should be much obliged by your bringing them to the notice either of myself or of the Ministry of Education with a view to a further enquiry.

6. His Excellency recognises that under the system of Reforms recently introduced your position and that of those who hold with you is not free from difficulty, and he is anxious that there should be no ground for complaint as to unfair treatment of any class or community, but he considers that the circumstances set forth in your letter are not such as to justify the employment of extraordinary measures outside those which are within the scope of the Legislative Council itself.

Yours sincerely,

H. D. CRAIK.

To

Diwan Bahadur Raja Narendra Nath, M.L.C.,  
"Fairfields," Ferozepore Road,  
Lahore.

Afternoon.

Mr. H. W. EMERSON, C.I.E., C.B.E., I.C.S., Chief Secretary to the Government  
of the Punjab—continued.

\* \* \* \* \*

1. Chaudhri Zafarullah Khan: I should like you to supplement the information contained in paragraphs 16 and 17 (chapter VIII of the memorandum, part I, page 185\*) by supplying the Conference with a little more information on this topic than is contained in those two paragraphs. Paragraph 17 explains to what extent the district magistrate is head of the police. I do not want you to repeat that, for it is

very concisely stated; but will you inform the Conference to what extent he is also head of the prosecuting agency?—As district magistrate, acting through the public prosecutor or other Crown prosecuting agencies, he is, in theory at any rate, responsible for the proper prosecution of important Crown cases.

2. I take it that as head of the police he is responsible for the prevention and detection of crime; as head of the prosecuting agency he is responsible for prosecuting offenders successfully (at least so far as he is concerned) and as head of the subordinate

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[Continued.]

justiciary he is responsible for administering law and justice?—Would you mind repeating that?

3. As head of the police he is responsible for the prevention and detection of crime; as head of the police I mean, to the extent described in paragraph 17?—I do not think he is responsible for the detection of crime. He is responsible, as this statement says, for the general security of the district, which is something rather more general than the prevention of crime.

4. Shall I say with the maintenance of law and order?—Yes.

5. When there is a breach of order he is responsible for or interested in seeing that the breakers of the law are properly prosecuted?—Yes.

6. And as head of the magistracy of the district he is also responsible for the actual administration on the judicial side of criminal justice?—I think that wants to be considerably qualified. If the suggestion is that when the accused persons are put before the court he is responsible for seeing that they are convicted, that is not correct.

7. I did not say convicted; I said properly prosecuted?—That they are properly prosecuted, yes; but you made a statement about his also being responsible for the administration of justice. Once the case goes into the court of a subordinate magistrate it is outside his direct jurisdiction, and if there is any representation as regards the prosecution that he wishes to make his proper course is to make it through the public prosecutor.

8. Then I take it that if during the criminal proceedings before the magistrate the public prosecutor is faced with a position where he feels he ought to obtain directions or instructions with regard to the prosecution, he would seek them from the district magistrate?—If he felt it necessary to seek instructions he would get them from the district magistrate, yes.

9. In that way the district magistrate would be familiar with the facts of all the more important criminal prosecutions going on in his district?—No. I should say, at a rough guess, that in the Lahore district the number of criminal cases each year must amount to about 15,000, but the number of cases with the facts of which the district magistrate was familiar would be very small indeed; it would be a very small proportion indeed of the total.

10. Take the case of a prosecution involving some important question of principle which happened to be tried by a second class magistrate. In the case of conviction, the appeal would go to the district magistrate himself?—For the district magistrate to express any opinion in a case of that sort, would be extremely rare. Personally I do not remember any second class case that was ever brought to my notice before or during its trial, but if before the case had come to him on appeal the district magistrate had given any directions in regard to it, or had had anything to do with its investigation or any personal knowledge of it, the proper course for him would be not to hear the appeal, and in practice a district magistrate, I think, would not hear the appeal in such circumstances.

11. *The Chairman*: May I interrupt for a moment? As far as you know, are there written instructions to that effect in this province?—I am afraid I could not answer that off-hand. I should think almost certainly there are instructions to the effect in the rules and orders of the High Court that as a general principle, a magistrate who has personal knowledge of a case should not try it in any capacity, either originally or as an appellate court.

\* \* \* \* \*

12. *Chaudhri Zafrullah Khan*: Now with regard to these appeals, of course, we understand that appeals from the second class magistrates go to the district magistrate, and those from the first class magistrate go in the majority of cases to the sessions judge?—Yes.

13. Could you give the Conference any idea as to

the proportion of appeals accepted by the sessions judge, and those accepted by the district magistrate?—I am afraid I could not. I have not those figures.

14. Have cases occurred in which it has been discovered that subordinate magistrates have consulted the district magistrate as to intermediate orders which they are called upon to pass during the course of criminal trials? For instance, an accused person might have made an application for bail; the matter is argued out before the learned magistrate, and the magistrate then goes to consult the district magistrate whether or not he should grant bail?—I think one particular case was mentioned during a recent debate in the council. Beyond that particular case I have no personal knowledge of any others.

15. Have you any recollection that that case went up to the High Court, and that that is how the facts came out very recently?—I believe it went up to the High Court.

*Dr. Narang* mentioned a judgment of the High Court—*Chirarija Lal and The Crown*.

16. *The Chairman*: I should be glad if you would let me have a copy of that judgment, so that I may read it.

*Dr. Narang*: Yes, sir.

17. *Chaudhri Zafrullah Khan*: I put it to you that in this province cases sometimes occur in which the duties of a district magistrate, as he conceives them, as prosecuting agency come into conflict with his magisterial duties. There was a recent case where the district magistrate tried the case originally himself, and frequently during the course of the trial he held a consultation with the prosecution witnesses and the public prosecutor in his private room before he went into court, in order to hear that very case, and when his explanation was called for by the High Court I have some recollection that his reply was that it was his duty to see that the case was properly worked out before it was put before him as magistrate in court?—I do not think his explanation was quite that; but the conduct of this particular officer is still *sub judice* and therefore I do not wish to discuss that particular case; but as a general principle I would say that Government definitely accepts the proposition that a magistrate who is trying a case, and who at the same time regards himself as a prosecuting agency, is definitely violating a fundamental principle.

*Chaudhri Zafrullah Khan*: I did not ask you to express any opinion as to whether the action of the district magistrate was right or wrong; I was merely asking whether the facts as stated are correct.

18. *The Chairman*: I think Mr. Emerson's answer is a fair one. He says he does not wish to state whether the facts are or are not as you suggest, and that on a ground which we all (and especially the learned gentlemen present) must sympathise with, namely, that the matter is actually *sub judice*. I think we shall all agree on this; at any rate, I have not the slightest hesitation in expressing my own view, that it is not consistent with the proper administration of justice that a judicial officer should secretly consort with the prosecution, or with the defence for that matter. That is quite obvious.

*The Witness*: Yes.

19. As a principle that must be right?—Yes.

*Chaudhri Zafrullah Khan*: My point is whether the learned magistrate did not take this line, that he conceived it the duty of the district magistrate to see that cases were properly worked up. That is all.

*The Chairman*: I take note of what you say, and I am quite prepared to deal with it on that basis if that fact is established; but you are relying upon it only because it illustrates the general argument you are putting forward. I do not know, however, that it shows the way these matters are regarded generally; it is rather the way in which this particular gentleman regarded his duties.

20. *Chaudhri Zafrullah Khan*: With regard to the conferring of higher powers on the magistracy, is it a fact that the superintendent of police communicates to the district magistrate, verbally or in



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[Continued.]

writing, his opinion with regard to the work of a particular magistrate in a district, when the question of higher powers is under consideration?—Not so far as I know.

21. Does he give his opinion as to whether a particular magistrate is a weak magistrate or a strong magistrate?—Not so far as I know. There is no rule requiring it, and personally in practice I did not consult superintendents of police and I imagine most deputy commissioners do not follow that practice. There is no system of annual reports by which superintendents of police express any opinion about magistrates.

22. The question is whether there are cases in which such reports are made, whether it has come to your knowledge, not as a deputy commissioner yourself in any particular district?—No, it has not come to my notice.

\* \* \* \* \*  
25. \* \* \* Have complaints been made or has the impression arisen that the conferring of higher powers on the magistrates depends, to a certain extent at least, upon whether the police or the district magistrate are or are not satisfied with the number of convictions and sentences inflicted by any particular magistrate?—So far as I know there is no such impression, and the impression if it exists is not founded on fact.

26. Are you aware that some years ago it was the universal practice in the Punjab that the excise officer in a district (who generally happens to be the revenue assistant), where these functions have not been separated, himself tried excise cases except those in the investigation of which he himself had taken part? In some cases that practice has been abandoned now, but is it still the practice in some districts?—As far as I know it is not the practice now, although at one time it was the practice. I cannot answer for every district, but my impression is that that is not now the practice; I do not think the excise officer does try excise cases now, but I speak subject to correction.

27. With regard to another topic which concerns the executive, the revenue assessment is made, of course, by the revenue authorities on the settlement side?—Yes.

28. Is there any provision in the revenue laws of this province (as there is in the Income Tax Act) for reference to the judicial side when a question arises as to the liability to assessment or the quantum of assessment, or with regard to remissions granted, before the assessment is finally confirmed?—None, as far as I know.

29. So that revenue assessment is entirely in the hands of the revenue side; there is no appeal to the judicial side?—There is no appeal to the judicial side as far as I know. I fancy that under the general civil law a person could contest his liability to be assessed, but that is a question on which you can give a better opinion than I can.

30. *The Chairman*: Assuming the position is that it is not disputed that the individual in question is liable to assessment, do I understand rightly that the amount of the assessment is the result, no doubt of a long and careful inquiry, but ultimately of an executive act?

*Chaudhri Zafrullah Khan*: Of an executive act; that is my point. The Income Tax Act provides for a reference to the High Court on certain matters, and I asked whether there was a corresponding provision in the revenue law of this province where the assessment of the revenue authorities was disputed.

31. *The Chairman*: I imagine you do not in the case of your income tax, any more than in the case of British income tax, fruitfully call in aid the assistance of the court, when the matter to be determined is a matter of fact. Once the income tax official (who is an executive officer) has given me my assessment, I cannot simply go to the High Court in England to ask the High Court to consider whether the assessment is not too big or too small.

*Chaudhri Zafrullah Khan*: There may be the point of law whether a certain commission paid by me is legally liable under the Act or not.

32. *The Chairman*: A point of law? Is that your point?

*Chaudhri Zafrullah Khan*: Yes.

33. *Chaudhri Zafrullah Khan*: With regard to canals we know that recently canal officers have been deprived of judicial powers, but is it not a fact that in the case of unauthorised irrigation from canals the penal assessment, as it is called, is made by the canal authorities?—Yes.

34. In some cases it would run into thousands of rupees?—Yes.

35. Although you might take it to higher revenue authorities (the collector and the commissioner) there is no means of testing either the legality of the assessment or the quantity of the assessment in any court of law?—That I cannot say. It is a point which I have never studied but I am quite prepared to accept your statement that there is no cause of action in a civil suit.

*Lord Burnham*: What would be the method of extracting payment in such a case?

36. *Chaudhri Zafrullah Khan*: Distress in the first instance, and possibly imprisonment. A man could not contest the assessment. (To the witness.) With regard to the canal areas where grants are made for horse-breeding or cattle-breeding purposes, or occupancy rights, where it is admitted Government is the direct landlord, so far as confiscation of those grants and questions of succession to the tenancy and transfer of the tenancy are concerned, the jurisdiction is entirely on the executive side, and these matters cannot be contested in the judicial courts?—Do you mean with regard to grants of Crown waste?

37. No, with regard to grants already made for horse or cattle breeding, or where occupancy rights are granted and the Government is still the landlord; any question of confiscation, of imposing penalties for failing to keep the conditions of the grant, of succession to the tenancy, of transfer of the tenancy—all these questions would be dealt with on the executive side and would not go into the judicial courts? The jurisdiction of the judicial courts is barred?—That appears to me to be reasonable. There are certain conditions attaching to grants of Crown waste. There is no obligation on anybody to take the grant, and if he takes the grant he takes it subject to the conditions of the grant and the law on the subject.

38. Quite. I wanted to ask whether it was a fact that the jurisdiction was on the executive side and not on the judicial?—The jurisdiction is on the executive side, yes.

39. *Lord Burnham*: He cannot contest the water rate?

*Chaudhri Zafrullah Khan*: That is not the point I wanted to bring out—I say that in the colony areas, as we call them—

40. *The Chairman*: Lyallpur?

*Chaudhri Zafrullah Khan*: Yes, and other places, grants are made by Government, for instance on what are called horse-breeding conditions (under which, for instance, the tenant has to keep a mare to supply foals to Government) or cattle or mule breeding conditions, or grants are made to ordinary peasant proprietors, but in certain cases only occupancy rights are granted. With regard to these tenancies, the question very often arises whether a man is or is not contravening one of the conditions of his tenancy, such as whether the mare kept by him is any good.

41. *The Chairman*: I follow that, but what is your point?

*Chaudhri Zafrullah Khan*: Also there is the question, when a tenant dies, of whether it is his widow who is to succeed or his collaterals, and the question of transfer, whether he can make a gift of it or not. Jurisdiction in these matters is on the executive side; i.e. the collector and commissioner decide whether the tenancy should be confiscated, or whether it would go to the widow or collaterals, and so on.

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42. *The Chairman* : I follow that, but what I want to be clear about is this. Is the origin of the man's title a grant from Government ?

*Chaudhri Zafrullah Khan* : It is.

43. *The Chairman* : Government, when it makes the grant, attaches certain conditions ?

*Chaudhri Zafrullah Khan* : It does.

44. *The Chairman* : Is not the real question whether the conditions of the grant which the grantee chooses to accept are such as to give Government those powers ?

*Chaudhri Zafrullah Khan* : Quite. Government, it is admitted can deal with the tenancy under such and such conditions, if there is a breach, but when it is a question of whether a breach has in fact occurred—

45. *The Chairman* : That surely must be a question of what the terms of the grant are. It is possible in England to have a grant given to you, on the terms that in the sole discretion of the grantor, if he alleges something has happened, you forfeit your property. There is nothing impossible in that position, and whether it is a good or a bad rule is not a matter which a constitutional conference can decide.

*Chaudhri Zafrullah Khan* : My submission is that that is one of the powers exercised by the executive.

46. *The Chairman* : I quite understand the illustration, but I do not imagine you suggest there ought to be a section in some Government of India Act to say this cannot be so, and primarily, of course, that is what we are considering.

*Chaudhri Zafrullah Khan* : I was merely going into the question of the sphere of the judicial and executive.

47. *Dr. Narang* : The last point which my friend was trying to make out would be better illustrated, as I think, by an example I would give with a view to asking Mr. Emerson whether it is correct or not. In the Lyallpur colony area one of the district officers wanted to raise a large amount of money, about a crore of rupees, from the people who have settled in the colony, and he adopted a method of assessment which was absolutely arbitrary. For instance, from agriculturists he wanted to raise money at the rate of one rupee per *mirla*, and from the shopkeepers at the rate of twenty-five rupees per *mirla*. Do you know that a large number of complaints were made by people in Lyallpur ?—I think the statement is incorrect that the deputy commissioner wanted to raise the money. From what I know of the case the Government decided that certain rates should be fixed for the purchase of certain shop and house sites.

48. And those rates were different in respect of different classes ?—Those rates were different, I think I am correct in saying, because in the case of the agriculturist, the house site was his residence, his chief calling was agriculture, which he carried on on his grant inside the village. In the other case the site was the site of a shop, which represented the occupier's chief, if not only, source of profit. I imagine it was probably on that ground that the distinction was made, but it was not a case with which I dealt myself.

49. But this you admit, that from the agriculturists one rupee per *mirla* was demanded, and from shopkeepers twenty-five ?—I do not know the exact rates. I know there was a difference between the two.

50. A great difference ?—I cannot say that. I have not dealt with the case.

51. Do not you think that the shopkeepers are also a necessary element of the village economy ? They settled along with the colonists themselves, and were as much colonists as the agriculturists ?—As this is not a case with which I have dealt personally, and on which I have no instructions, I am not in a position either to justify or explain the policy of Government in the matter.

52. No reason can be stated by you ?—Because I have had no concern with the case.

53. During these debates in the council about the separation of judicial and executive authority,

there was a committee which recommended that separation ?—Yes.

54. Will you please inform the Conference whether the Government agreed to the separation of judicial and executive power ?—I am afraid my reply will be a long one, but I should like the opportunity of giving it at some length.

55. *The Chairman* : Please give us your answer. I want to understand the matter.—A committee was appointed, in 1922, and the committee made a report to Government recommending certain changes. Their recommendations certainly did not involve the complete separation of the executive and judicial functions. In the first place, they laid very great stress on the fact that a magistrate's functions did not begin and end with the trial of criminal cases. They stated that it was a very important function of a magistrate to maintain the peace. The committee also accepted the principle that certain preventive powers should be retained by the executive authority. Among other things, as far as I remember, they recommended that the executive authority, call him the deputy commissioner, should have the power of placing men of bad character on security ; also that he should have the power of taking certain action in regard to property when that property was likely to lead to a breach of the peace. They also laid very great stress on the fact that the executive authority must be responsible for the law and order of his district, and that in order to fulfil that responsibility he must still have under his control for certain limited purposes the magistrates of the district. Their chief recommendation, therefore, was that so far as the trial of cases was concerned, the magistrates should be under the control of a judicial officer, I think a senior sub-judge, but that at the same time, whenever the deputy commissioner required the services of the magistrates for preventive action, the maintenance of law and order, then they should still remain under him. That is to say, the magistrates were to be under two masters. Government considered that that scheme did not secure the separation of judicial and executive functions. In the second place, the scheme as put forward was an expensive scheme ; the cost, even as estimated by the committee, was large, and the cost was much under-estimated. Thirdly, at the time the recommendations were made, and for some years after, the province was disturbed by various movements which menaced the preservation of law and order. First of all there was the non-co-operation movement. Then we had the Akali movement. Then up till quite recently we have had communal riots, and Government did not think that the time was opportune for introducing a scheme of this sort, which did not secure the primary object which it was intended to secure, and which might very seriously undermine the maintenance of law and order in the province. In regard to the general question, the position of Government is that it keeps an open mind on it. It admits the general principle that judicial and executive functions should not be combined. It is prepared to consider any scheme that is put forward, but I think that scheme would have to satisfy three conditions : firstly, that it was not so expensive as to be outside the capacity of provincial finances, or that it should not be so expensive that it would mean that other departments, and particularly the beneficent departments, would be starved in order that it could be carried out. The second condition is that the scheme should be such as will not prejudice the state of ordinary crime in the province—I mean, dacoities, murders, and so on. And the third condition is that it should not undermine the ability of the executive officer whether he be called the deputy commissioner or district magistrate, to maintain law and order in the district. If any scheme is evolved which will satisfy those three conditions, I am quite sure that Government will be only too glad to give it the most careful and favourable consideration. That, I think, is the position.

56. *Dr. Narang* : You said just now that the

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Government accepted the principle. Have the Government already taken certain steps to that effect?—I do not think I said Government had definitely accepted the principle, did I? I said Government had an open mind on the subject and it accepted the theoretical principle that it is desirable that judicial and executive functions should be separated.

57. *Mr. Owen Roberts*: In the case of acquittal it is the duty of the district magistrate to report to Government whether an appeal should be lodged or not?—If the district magistrate in a case in which the Crown was the prosecutor thinks that the man has been wrongly acquitted, it is his duty to refer the case to Government with a view to a retrial and reference to the High Court. When it is referred to Government, the advice of its legal advisers will be taken, and if the final opinion is that there has been a miscarriage of justice, directions will be given to move the High Court.

58. *The Chairman*: Would you make this a little plainer to me? I should like to be quite clear as to whether the matter is referred to the Court in such a way that the individual who has tried the case in the first instance, and has decided that the accused should be discharged, is himself expected to report for further action to a higher quarter, or whether you are referring to a case where somebody who has not had the business of dealing with the judicial work of trying the particular offender reports on the matter?—It is somebody else; it is the district magistrate, not the magistrate who has tried the case. If the district magistrate himself acquits, there is no obligation on him to report to higher authority.

59. *Mr. Owen Roberts*: Then as regards the No. 10 register, that, I understand, is prepared in consultation between the police and the deputy commissioner?—I do not think so, no. That is a function of the police.

60. The deputy commissioner takes no interest in it?—I will not say he takes no interest in it. If he goes on tour in the district he is interested to know who is on the register, because he ought to know who are the bad characters, say notorious receivers or burglars.

61. He never has a name put on to that register himself?—Take a case where a deputy commissioner is on tour. The visitors he sees, or the people who come in to him, complain that such and such a person is the head of a gang, we will say, of dacoits or cattle thieves. The deputy commissioner would ordinarily pass that information on to the superintendent of police, who would make his inquiries and would verify it; but the deputy commissioner himself would give no summary order that that man should be put on No. 10 register.

62. *Captain Sikandar Hayat Khan*: Under the police rules he could do so?—I do not know whether that is so. It is possible. It would be unusual.

63. *Mr. Owen Roberts*: Is it a fact that no man whose name is put on that register is given an opportunity to show why he should not be included in it?—In the first place, the No. 10 register, so far as I am aware, is actually a register of bad characters, maintained by the police. The fact that a man's name is on that register involves no penalty whatsoever.

64. In security proceedings it is put in evidence, I am told.—It might be put in evidence that his name was on that register, but the fact that his name was on that register would be of no evidential value unless it was supported by good reasons as to why it was there.

65. But is not there a general complaint that that register is sometimes used in order to put people into difficult positions?—In so far as that complaint is true, the separation of judicial and executive functions would not help at all.

66. *Sir Hari Singh Gour*: You said that the Government accepted the broad principle that there should be a separation of the judicial and executive functions?—I think I said Government kept an open mind upon that.

67. And they laid down three conditions, as to cost, the suppression of crime, and the preservation of law and order. Anyway, subject to these three conditions have the Government prepared any scheme of their own for the separation of the judicial and executive functions?—The Government has prepared no scheme.

68. Why not?—I think one very good reason could be given. Any scheme which would satisfy these conditions would be too costly to introduce at present into the province. I said if any scheme satisfying the three conditions were put forward, Government would give it careful and favourable consideration. That is all I said.

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72. \* \* \* I would like to ask, if the Government have an open mind and would like to examine this scheme provided it covers these three conditions, why have the Government themselves not prepared a scheme to test whether such a scheme is or is not possible and answers to the three conditions you have laid down?—The answer would be, I think, that in the present financial condition of the province such a scheme is not feasible.

73. Now let me put it to you: the separation of the judicial and executive functions boils down to two facts, namely, divesting the district magistrate of certain powers which he possesses in the nature of preventive and punitive powers; and the second point, that all the subordinate magistracy should be appointed and should be under the High Court instead of being under the executive government. These are the two principles?—No. Your first statement was that the separation consists of divesting the district magistrate, that is to say the deputy commissioner, of certain preventive powers.

74. Of certain judicial powers which he exercises under the procedure?—I think your statement was of certain preventive powers which he now possesses.

75. No, judicial powers, punitive powers.—Of what sort of judicial powers is it proposed to deprive him?

76. For instance, the powers he possesses of taking cognisance of all cases upon his knowledge or suspicion, or at least upon reports, and upon complaints and information, and the *chalan*?—I should like to make it clear that Government does not accept in principle any scheme which would deprive the executive head of the district of the exercise of preventive powers which he has now got, that is to say preventive powers relating directly to the maintenance of law and order.

77. That is one branch?—Yes.

78. Now about the judicial powers, the trial of cases and the supervision of the subordinate magistracy; that is the other branch?—I would also like to make it clear that the third condition that I mentioned, that it should not prejudice the maintenance of law and order, involves the necessity of the chief executive officer, namely the deputy commissioner, being able to call to his help at a moment's notice a sufficient number of magistrates to deal with an outbreak of disorder. It is a very important point, and I should like to illustrate that. Under the present conditions, if a communal riot occurs, the deputy commissioner has under his own control, under his own orders, a number of magistrates whom he can immediately place on duty for preventive action. In the same way, if on the occasion of a religious festival there is a breach of the peace apprehended, he has magistrates under his control whom he can depute to accompany the procession, and that is done, of course, as a matter of course, on practically every religious festival. Government regards it as essential that whatever scheme is put forward it must provide for the deputy commissioner being able to call on the services of sufficient magistrates to allow him the control of situations which threaten an outbreak of disorder.

79. This condition might be fulfilled if the subordinate magistracy were placed under the High Court

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instead of under the executive government?—It would be very difficult.

80. And provision were made that the magistrate shall assist the district authorities in the manner already provided?—I have seen several rather big riots and other disorders, and I should not have liked to deal with them if I had had to call on some other authority to provide the magistrates. I would not have been sure of getting them as quickly as I was able to get them in existing circumstances.

81. But the new scheme I am putting to you has never been put to a practical test. Those are your apprehensions?—Yes.

82. It has never been put to a test; but you recognise that the popular opinion of all shades in this country for the last forty years or fifty years has been in favour of the separation of the judicial and executive powers?—I do not think it has seriously considered how it is going to solve the problem of placing at the disposal of the executive officer the necessary magistrates when he requires them. I think it has paid a great deal of attention to the separation of the judicial functions, but not quite enough attention to the other difficulties.

83. What difference at all will it make if the subordinate magistracy is placed under the High Court instead of under the executive government? It would make no difference in cost. It is simply a question as to who would promote, suspend and remove them.—Who is going to be responsible for law and order under the new scheme?

84. The executive government would be still responsible for the maintenance of law and order and given powers to call upon the magistracy to assist them, just as they have the power to call upon the military to assist them in case of emergency?—Well, there is just one point. It may seem a minor one, but it is rather important. The magistrates at present are of great value on occasions of disorder or threatened disorder, because they have some executive experience. I doubt if magistrates who have spent their whole time sitting in court hearing cases would be of equal value when they were suddenly called upon to deal with a very dangerous situation.

85. The question I put to you is this. I quite admit that executive experience is a necessary equipment for a subordinate magistrate, but that does not prevent the subordinate magistrate being placed under the High Court. That is the point I am making.—The High Court for what purposes?

86. For the purpose of promotion and disciplinary action, and so forth.—So long as they are executive officers as well, they must surely remain under the executive government.

87. The question I put to you is this. Do you think that this executive experience is a necessary equipment for a subordinate magistrate and that it does not prevent the subordinate magistrate being placed under the High Court? That is the point I am making.—Under the High Court, for what purpose?

88. For the purpose of promotion, disciplinary action and so forth?—Being an executive officer as well he must surely remain under the executive government.

89. Yes, but the High Court may say that they are mainly judicial officers, or partly judicial officers and partly executive officers and why should they be under the executive government?—I do not think that question has ever been put.

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93. As a district magistrate, did you not regard the district superintendent of police as your assistant in the police department?—I regarded him as my helper. I did not regard him as an assistant, subordinate to me.

94. He has in all cases to consult the district magistrate and to abide by his decision?—Not in all cases. The district magistrate could not possibly deal with all.

95. It is not in the police manual, that he must seek the advice of the district magistrate in all difficult cases before they are launched in court?—No, that is certainly not the practice. The number of chalans in the Lahore district runs into thousands, certainly over 10,000 each year. I think the number of accused in one year was something like 30,000. It would be quite impossible for the district magistrate to deal with a thousandth part of the chalans.

96. Either the power is illusory or it is real. If it is real, then he must deal with all these cases. If it is illusory, there is no reason why he should retain the power at all?—I do not follow that.

97. *Sardar Shiudev Singh Uberoi*: Mr. Emerson, you said that at a time of threatened breach of law and order the deputy commissioner can issue orders to the subordinate magistrates to go to his help?—Yes.

98. Do you think those magistrates who attend such occasions are from the canons of equity and justice competent to try the cases of those accused persons who are chalaned with reference to those disturbances?—If an actual breach of peace occurs none of the magistrates who has personal knowledge of the facts would be competent to try the case nor would the case be sent to him. The assistance of a magistrate is required more on the preventive side.

99. And similarly you would not think it just for a deputy commissioner to give his help in the arrest of the people and then keep these cases for trial in his own court?—No, certainly not. That is most irregular.

100. *Chaudhri Zafrullah Khan*: Could you inform the Conference whether the presidency magistrates are subordinate to the High Court and nevertheless their services for preventive action are easily requisitioned by the executive authorities?—I am afraid I cannot say. I have not had any experience.

101. Are you aware that they are under the High Court?—I do not know whether that is an actual fact.

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103. *Major Atlee*: On page 285\* you set out the classification of Government services, and in a statement on page 295\* you show the cadres of the All-India services. There is one point which arose in Bombay. I think we may clear it up here—and that is that certain of the All-India services belonging to the transferred side have ceased to be living services owing to the fact that there is no recruitment, but I take it that there are provincial services taking their place?—The proposal is that superior provincial services should take the place of those All-India services that are coming under abolition.

104. The first point on that is this. When for instance you show the total strength of a cadre in a transferred service we are not to take it that those are the only people that work that service now?—That only refers to All-India services.

105. The former All-India services in transferred departments have now become provincial services?—Yes, but in addition to the All-India services and in addition to any superior provincial service that will be formed, nearly every department concerned has already got a provincial service. There will be new superior services—superior provincial services or whatever one cares to call them—in addition to the provincial services that already exist.

106. Yes. The point is that these provincial services are not set out?—They are not set out at all in the statement referred to.

107. The second point I would like to ask is this. You say it has been contemplated to set up a superior provincial service. Can you say why that has not been done?—I think one of the difficulties has been that there was considerable delay in the issue of rules to regulate these services by the Secretary of State. Even now I do not think final orders in



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regard to them have issued. Then there were considerable difficulties in framing the terms and conditions of service. I think all provinces experienced that difficulty, and so far as I know I do not think any province has yet established any of these superior provincial services, or if they have, it is only quite recently they have done so. I think less than a year ago all the provinces met in conference in Delhi to see how they should begin to set about it. I think we are now fairly well advanced towards doing it here.

108. What about the specialist posts? You have mentioned them on page 285.\* I take it that some of these specialist posts are posts that would be in a superior provincial service if you had one?—Some of them would be and some would not. For instance, take the Agricultural department. It has ceased to be an All-India service. Well, where it has been necessary to recruit an officer who would have belonged to an All-India service if that had been in existence, it has been necessary to recruit him on a short term contract, usually for three or five years, and usually the option has been given to him of entering a superior provincial service when this is established.

109. Are those specialist posts held mainly by Indians or by Europeans?—I think most of the special posts are held by Europeans, but not entirely. There are some special posts held by Indians.

110. When a service has become a transferred service I take it that thenceforth the personnel, except for the surviving All-India service men and specialist posts, would be entirely Indian? Or is there any European recruiting in transferred services?—That is a question of policy. There is no reason why there should not be recruitment of Europeans. There is nothing forbidding the recruitment of Europeans.

111. I was rather asking you as a matter of fact?—I think there have been several Europeans recruited to some of the transferred services. In the Education department, certainly. It has been necessary to recruit them on short term contracts.

112. Now, in regard to the recruiting for the services—I am not dealing with the Indian Civil Service at the moment—I gather from several pages here—pages 286, 288 and others\*—that there has been some sort of a contest in the province with regard to the question of appointment by examination and appointment by selection. Is that correct?—Yes, there is considerable difference of opinion regarding it.

113. Am I correct in summing up the position by saying that it is considered that in certain services you require a man say with agricultural experience in the department of Agriculture—and that is regarded as a set-off against less superiority in academic subjects?—Yes, I think there are two considerations. There is the consideration, that in certain departments we must have men suited to the special conditions. For instance, in the co-operative department it is desirable to have at any rate a large proportion of men who are conversant with the actual conditions of rural life and who are members of the rural community. And if pure competition were introduced you might not get enough of that class of officers. There is the second consideration that if pure competition were introduced you might get a preponderance of officers belonging to one community, and it is one of the principles of Government that it should avoid undue predominance of any community or class.

114. Has your Government considered at all the possibility of introducing a Provincial Civil Service Commission either in connection with the Civil Service Commission that we have in India or a separate one?—I think the point is specifically dealt with in another volume.

115. *Major Attlee*: I do not propose to ask the same questions that were put by other members on

the point. With regard to the question of Indianisation, are the proportions laid down in the Lee Commission's Report being generally followed in this province?—I think the statement on page 295\* shows that since January, 1921, there has been a very rapid advance of Indianisation. I have not actually made a calculation to say whether that has been as rapid as laid down in the Lee Commission's Report, but I should say it has almost certainly been as rapid. Take the Indian Civil Service. In 1921, the proportion of Europeans was 96 and of Indians 4. On the 1st of January, 1928, the percentages were 78 and 22—a very large change in seven years; and similarly for the other services which are dealt with here. In the Indian Police Service the percentage in 1921 was 92 and 8; in 1928 it was 80 and 20.

116. Has that rapid Indianisation during these years been due to an exceptionally large number of retirements causing a rapid influx, or was it because of the definite policy of the Government of India?—I think it is due to both causes.

117. *The Chairman*: Will you please just repeat it that I may be sure that I have got it entirely clear? As regards the figures that you have just mentioned about the Police Service as an illustration, in 1921 you had 92 Europeans and 8 Indians, including in that phrase for this purpose Anglo-Indians. In 1928 you had 80 Europeans and 20 statutory Indians. I would like to have it made entirely clear. Does that relate solely to All-India services?—It refers to All-India services.

118. And I gather that side by side with that there is another service, the provincially recruited service, which is practically exclusively Indian?—Practically; not quite as exclusively in the police as in some other services, because in the Police Service a larger number of Europeans (sergeants and inspectors) are employed than in other services.

119. Take the police staff as a whole. These figures, 92 or 80 as the case may be, are of course only one portion, which is the All-India service?—Only that portion which is All-India service.

120. Because in Poona there was a certain amount of difficulty on that point and we spent some time in getting that clear. It is the same here?—I may make it clear in regard to the Indian Civil Service. The figures here deal entirely with the Indian Civil Service. Then there is a Provincial Civil Service which is a large service of 240 or so. All members of that are statutory Indians. Perhaps I may now answer your (*Major Attlee's*) previous question. The recruitment of the Indian Civil Service for the whole of India is of course regulated by the Government of India, and I think it is 50—50 as far as I know. That does not mean that the distribution of successful candidates over the various provinces is necessarily 50—50 over each province. There are two reasons why the percentage of Indians has increased in the Indian Civil Service in the Punjab. In the first place we are getting our share of Indian candidates, of new recruits. In the ordinary course the number we are getting would not have brought the percentage of Indian recruits up so rapidly as it has done, but this factor has been supplemented by a good number of retirements of senior European officers. The total strength of the cadre in 1921 was 138; the total strength now is only 106. There have been many retirements of senior officers, and there was very short recruitment during the war and after the war.

121. *Major Attlee*: Does that mean that you are 32 men less in the Indian Civil Service now than you were in 1921?—Yes; 32 less.

122. Arising out of that, has not that meant a very much increased strain on those who were left behind in the work?—I think that is so. It has been more difficult to give leave because it has been so difficult to find men to take the place of those who are given leave, and where leave is given,

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shorter leave has been given than otherwise might have been the case.

123. Can you tell me whether there has been a tendency during your service for Indian Civil Service men to remain a shorter time in their districts, and for changes to be more frequent than was formerly the custom?—I think the old tradition was that the deputy commissioner stayed a very long time in each district. That is not the tradition now. The normal period is three years. But owing to the fact that there is a shortage of officers it may be necessary to transfer a man to some post for which he is suitable—and perhaps it may be that he is the only suitable man for the post—before he has completed his three years. Owing to the shortage of officers there is difficulty in arranging the posting and therefore naturally an officer is in charge of a district for a shorter time.

124. Is that difficulty increased to any extent by the fact that you may have communal difficulties in a district which involve the sending of a neutral person, instead of sending someone belonging to a particular community?—No; I should not say that the difficulty has been much increased. To a certain extent it might be. The trouble might occur in a district and it might be necessary to make a change in the personnel of the district; but that has not been a serious factor.

125. Is that period of three years an ideal figure to go upon or the actual figure? If I ask you for a return showing the actual time spent by officers in a place and the number of changes within a given period, would it show that for three years an officer would have to remain in a place, or would it show a greater amount of change?—I should say that the average period for an officer who is not merely officiating in a post (when he is only officiating he is liable to revert) but has reached the permanent status of a deputy commissioner, during the last six years must be considerably less than three years. Three years is more the ideal than the actual period.

126. Would you say that it has made a difference in the knowledge of the officer in the district, or whether the administration has been impaired by the fact that there are so many changes?—I think that frequent changes impair the efficiency of the administration.

127. With regard to the changes brought about by the Reforms, in this province we have heard that the deputy commissioner is still chairman of the district board. Has there been a tendency for the district officer to lose a certain amount of his functions?—I think that as the result of the Reforms the deputy commissioner has probably more interests than he had formerly, because although he may not have any direct concern with certain transferred departments, he is always being consulted on some subject or other relating to them.

128. You have got now local representatives appointed by Government in charge of many departments. But the fact that certain departments are transferred, will that lead the people not to look to the district officer, but to look to the ministers and members? You have got a local member of the council. Will they look to him and not to the collector?—I think in some departments they probably do; I mean in the Education department, for instance, they will probably look to the educational officers and so on. But I certainly do not think that the prestige of the district officer has been seriously affected by it. That is my own impression.

129. He is still considered as a person who is not merely concerned with keeping law and order and collecting revenue, but he is still a person who may have more pleasant duties to perform?—I think the ministers and the heads of departments in transferred subjects find the deputy commissioner very helpful and valuable in their work and they do very often associate him with their work.

130. Lord Burnham: Is he still regarded as providence?—He can certainly be regarded

if he wishes to be. I think a very good example is Gurgaon. I think the deputy commissioner of Gurgaon was certainly the foremost exponent of the beneficent activities of Government in his district. and his work was very greatly appreciated by the ministers and by the legislative council.

131. The Chairman: I should like to take the opportunity of saying that all the members of the Statutory Commission were very much struck with Gurgaon. We have no doubt of the devotion of the officer you refer to.—Naturally the deputy commissioner has more activities than he formerly had and I think to an increasing extent the transferred departments will find him useful and helpful.

132. Captain Sikandar Hayat Khan: May I ask you just to clear up that point about specialists' posts? You said that these specialists' posts were mostly manned by Europeans. May I remind you that in the Agricultural Department practically all the specialists' posts are occupied by Indians? For instance, the cerealists, the two fruit specialists, are all Indian appointments as far as I recollect?—I think the reason for that is what I gave to Major Attlee, viz., that since recruitment of the All-India services ceased, and in the transitional period before the creation of this provincial service, these posts have had to be made special posts. In the ordinary course I think when a new provincial service is created, these specialists will go across. In regard to the Europeans the position is not quite so clear. You may have to offer them greater pay than is provided for in the provincial service. Since the recruitment to All-India services has ceased and in the transitional period before the creation of the superior provincial services these posts had to be made special posts. In the ordinary course I think when a new provincial service is created, these specialists will go across. In regard to the Europeans the position is not quite so clear. You may have to offer them greater pay than is provided for in the provincial service.

133. At the present moment?—I think it is quite possible that this is so.

134. In reply to Major Attlee you said that probably on account of the deficiency of Indian civil service officers they had to do more work. Would you inform me if there has been any increase in the provincial cadre?—There has been a very large increase.

135. May I suppose that they do most of the work formerly done by the Indian Civil Service?—Certainly not.

136. They relieved them of a certain amount of the work at least?—I do not think they relieved them of very much. The only direction in which I can think the Indian Civil Service officer is being relieved is probably that the district magistrate does not try as many original criminal cases as he did. But even before the war I think that the district magistrate's criminal original work was not very large. I cannot think of any other direction in which the increase of the provincial cadre has given relief to the Indian Civil Service. What has happened is this. The provincial service cadres are now filling a number of posts which in the ordinary course were filled, and ought to be filled, by members of the Indian Civil Service.

137. For instance, the posts of subdivisional officers?—Yes, subdivisional officers, and also there are more officers in charge of districts than there are listed posts.

138. You have junior Indian Civil Service officers as most subdivisional officers instead of experienced service officers?—I do not think this is a statement of fact. At the present time the majority of the subdivisional provincial service men are so occupied that before the war the subdivisions were found for charge of necessarily abandoned

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138. You have now junior Indian Civil Service officers as most of the subdivisional officers instead of experienced provincial service officers?—I do not think this is quite correct as a statement of fact. At the present moment I think the majority of the subdivisions are occupied by provincial service men. But there are less subdivisions so occupied than there were two or three years ago. Before the war when we were not short of officers, the subdivisions were used as the best training ground for charge of a district. That policy was necessarily abandoned



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during the war and after the war when we were short of officers. We have now got a fair number of Indian Civil Service men and we are again able to utilise the subdivisions as the best possible training ground for the charge of districts.

139. With regard to the troubles in the district, in reply to Major Attlee you said that it might be advisable in certain circumstances to change the officers from one district to another. Would you give any instance where this has been done?—I should certainly object to giving such particulars. Personal questions are involved.

140. Had such things not happened, would there have been a necessity for the change of officers?—It was not vitally necessary to change, but communal differences, were a factor that had certainly to be taken into account.

141. *The Chairman*: Might I just try to put the question in a slightly different form? What I should like to know from you, Mr. Emerson, is this. Speaking from your experience and with your manifest sense of responsibility would you say that cases do arise when requests are made to Government from local quarters or responsible quarters requesting or suggesting that in view of the communal tension it should be preferable to have a neutral rather than an officer who is a member of one or the other community?—I think such cases do arise. I do not say they are very frequent but they have arisen within quite recent times.

142. *The Chairman*: You explained to us that in posting officers to the different posts the administration was considered—what was the most appropriate position to be given to an officer—and all these things come in. I was speaking of the emergency which may arise in a district and which undoubtedly does involve strained feelings between one community and another. That is the class of cases. I may tell you that some impression of this sort has certainly been created in my mind.—Such cases do arise, but they are not frequent.

143. *Captain Sikandar Hayat Khan*: With regard to the beneficent duties of the deputy commissioners you will agree with me that they are still in touch with the beneficent side of their work, e.g. education, medical, etc.?—They are in touch. The view of the Government is that they should be in touch.

144. *Raja Narendra Nath*: What is the proportion of members of rural communities in the Co-operative department and the Agricultural department?—I am afraid I cannot say off-hand. The information is contained in the census of Government servants.

145. What proportion of the rural community is taken in these departments?—I think the figures are given here.

146. Is it not about 90 per cent. in both?—The information is given on page 287\*. I think 80 per cent. for the Co-operative department.

147. Does not that involve the preponderance of one community? You said that you toned down the preponderance of one community. Is that the policy of Government?—I think the policy is stated thus: "In all cases so to conduct recruitment as to avoid any undue preponderance of any one class in the public services through the exclusion of the reasonable claims of other classes of the community."

148. Then the policy is not that of closing a department to any particular class in an unqualified manner?—It is recognised that there are certain departments which require particular types of officers.

149. What types of officers do you require in these two services?—In the Co-operative department which deals mainly with the rural community, with the zemindars, rural banks and so on, I think the view of the co-operative officers is that they require men who by tradition and by environment are in sympathy with the actual agriculturists, who supply the greater number of the members of the various banks, and so on. And on the other hand, where

the department has to deal with industrial societies in towns, their policy is to recruit officers with urban connection and urban interests. I understand that is the policy.

150. Are the head of the Co-operative department and the head of the Agricultural department quite enthusiastic about their work?—I think they are; they are quite enthusiastic.

151. They do not belong to members of the rural communities?—Well, I am not quite sure whether they do or do not. I am afraid I am not in a position to say. They are not members of agricultural tribes.

152. *Dr. Narang*: Members of the provincial service are acting as judges, subordinate judges, sessions judges, and also one of them is at present on the bench of the High Court?—Yes.

153. On the executive side they have been working as deputy commissioners?—Yes, and they have done very well.

154. That was my next question, and you have replied already. Can you give me any justification for the difference in their pay and emoluments as compared with the members of the Imperial service when they are discharging their duties with equal efficiency?—It seems to me that the chief question is a question of fact. In the one case they are recruited to an All-India service from the beginning of their service, and they are entrusted with more responsible duties than the member of a provincial service is entrusted with at the beginning of his service. I think it is necessary to remember that when you refer to the members of the provincial civil service who are in charge of districts or who are sitting on the bench of the High Court you refer to the best selected officers.

155. As you know, when an Indian Civil Service man comes out to India he starts as an assistant commissioner and probably as a third-class magistrate, and on the executive side even a provincial service officer starts as a magistrate with the same powers. It is there that the difference arises?—Both have to go through a period of training. I am not counting the period of training as the time within which one has to perform more responsible duties than the other. I think the comparison comes in later, between men of five to fifteen years' service. If you compare the duties and responsibilities, then I think you will find that there is a big difference.

156. Is it because of any inherent inferiority of the provincial service men or because one is an Indian Civil Service officer and he has perforce to be on higher and more responsible duty?—The tests for entry into the services are very different.

157. We would like to know the difference. For five years you say they carry on the same duties?—I do not think I said that.

158. Where, then, does the difference come in?—What I said was that after five years' time—and very often in less than that time—you find that there is great difference between their duties and responsibilities.

159. It is not clear to me. Is that difference due to this, that the provincial service man is not fit to discharge the duties satisfactorily or because he does not get an opportunity to do that as a man of a higher or more sacred service gets a higher job? That is the question I want to be answered.—The general view would be, I think, that, as things are at present, the average officer of the Indian Civil Service has higher educational qualifications than the average provincial service officer. Taking the average, the average officer of the Indian Civil Service would be expected to be more efficient and more able than the average officer of the provincial civil service.

160. Supposing this question were put to a representative of the provincial service, do you think he will agree with you?—If a similar question were put regarding the provincial service to a representative of the subordinate service, the latter would also not agree.

161. Is it not something like the portrait of a lion and a man, one being under the other?—Certain



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qualifications are laid down for the All-India services which are not laid down for the provincial civil service.

162. Do you think, then, having once admitted that these people have been discharging the highest duties that can ever fall to the lot of a member of the provincial service here efficiently?—What do you mean by “these people”?

163. Provincial service men.—I said selected officers, those officers who have been holding charge of certain districts.

164. Very well; do you mean to say, then, that for the remaining posts you may not have a sufficient number of men and it is on account of dearth of intellectual ability that you have to keep these men here or for any other reason?—Which men do you mean?

165. Is it on account of dearth of ability in the provincial service that you want the Indian Civil Service or because since the Indian Civil Service men are already there they have to continue?

*The Chairman*: I am afraid I do not quite follow you.

166. *Dr. Narang*: The provincial service men—at least the selected men among them—have admittedly done their duty very well wherever they have been placed; on the judicial side from the subordinate judges up to the bench of the High Court, and on the civil side from the extra assistant commissioner to even the commissioner. Now, the question is whether the members of the Indian Civil Service are required because there is dearth of able men in the provincial service or for any other reason? Whether there are not sufficiently able men among the members of the provincial civil service to replace the members of the Indian Civil Service in this country?—The answer is that certain general standards have been laid down for the All-India services, certain qualifications are necessary for the All-India services.

167. And provincial service men do not come up to those standards. That is your opinion?—The answer, I think, would be that in individual cases some of them probably do. If an officer who is seeking employment in Government service desires to enter an All-India service and not a provincial service, he has now the opportunity of doing so; he can compete in the Indian Civil Service.

168. That is not my point. He may or may not like to compete; he may not have resources to compete.—There are two competitive tests for the Indian Civil Service examination and the provincial civil service examination. If he competes in the first and is not successful, the assumption is that he has not attained that standard which is considered necessary for the All-India service. If he is unable to compete it is his misfortune. I cannot draw any conclusion whether he would or would not have succeeded had he competed.

*Dr. Narang*: My question has not been answered, sir.

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*The Chairman*: He has given you his view; it does not commit anybody else.

169. *Dr. Narang*: He is one of the most responsible officers of Government. I just want his opinion.—I think the view of Government would be that if the provincial services as at present constituted—I am not merely referring to those departments which are subordinate to the Indian Civil Service, but I am referring to all departments—if the provincial services as at present constituted were substituted for the All-India services as at present constituted, there would be a distinct fall in the standard of efficiency.

170. Thank you for the answer. Can you give us an idea of the time by which all these so-called Imperial services may be replaced by indigenous staff, if I may so put it? Do you think that the Indian Civil Service would be necessary for ever?—That is a question, I am afraid, I cannot give an opinion on.

171. *The Chairman*: May I ask you this. Are

you visualising a situation in which, notwithstanding that the All-India services would be more Indianised, nonetheless the province would be autonomous in this sense that it would have no individual posted to it such as an Indian I.C.S. man?

*Dr. Narang*: My object in putting this question, sir, is this. If we get self-government, as we hope to get, it may be for our benefit to employ the best talent available. There will be no bar to the appointment of an Indian Civil Service man, if he still continues to be called an I.C.S.—but he may not be called by that name, but there would be no obligation to appoint him. That is my point. The question that I put to the witness was this, whether he thinks that it should continue to be obligatory on this province to employ Indian Civil Service men, and if so for how long.

172. *The Chairman*: I think your question comes to this: Whether the witness considers that the time is shortly to come when men who have attained the present standards which are required in the provincial service will be likely to be forthcoming so that it may not be necessary to call for any supplies from the central Government.—The question, I understand, is whether it will be necessary to maintain a service, composed whether of Europeans or of Indians, which is superior to the present provincial service. My answer would be that you would have to maintain a service with qualifications superior to those of the provincial service. It might perhaps be done by raising the qualifications of the provincial service.

173. *Dr. Narang*: We might as well dispense with importation. Anyhow the point is clear. Now, kindly turn to page 290\* of your memorandum. I would just draw your attention to the last sentence of para. 8 after the semi-colon. “It is sufficient to observe that of recent years there has been a great increase in demands of a communal, class, sectional and local character for Government employment, and that, so far as these demands have adversely affected or threatened to affect vested interests by substituting privilege for intellectual ability, they contribute to communal and class feeling.” I would just like you to explain certain words in this passage. Communal, we understand. By “class” you mean rural and urban?—Yes.

174. By “sectional”?—Rajputs, Jats and others.

175. By “local character”?—It refers to the sort of questions that are generally asked in the council. For instance, “will the Government please state how many Jats from the Hissar district are members of the provincial service,” and so on. That is to say an increase in the tendency of districts to press their claims for employment in Government offices.

*Dr. Narang*: You recognise that it has led to this evil, that it has created a communal and class feeling. In addition to this has it led to any other evil, for instance, to inefficiency?

*The Chairman*: Let me correct the statement lest it might be misreported by the gentlemen of the Press who have not got the book in front of them. The book does not say that it “creates” a communal and class feeling; it says it “contributes to” communal and class feeling.

176. *Dr. Narang*: Thank you, sir; I ought to have been quite precise. Now, this evil is admitted in this memorandum. Has it not led to another evil, namely, inefficiency in service, or rather does it not at least tend to increase inefficiency in service?—Not necessarily.

177. As a matter of fact has it led to inefficiency or not so far as your experience goes?—So far as my experience goes, I should say that the effect has been small. It depends on what you call efficiency. If you limit efficiency to intellectual ability, then it is probably true that the effect has been considerable; but if you consider efficiency as extending to the whole field of administration in which you have got to take various factors into consideration, well,

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then I should say that if you have one community predominating although the members of that community might be intellectually superior to those of another, that would be more opposed to real administrative efficiency and would add more to the difficulties of the administration than as if the members of that service were more evenly spread over the communities, although the general intellectual average might thereby be slightly lowered.

178. The quality of work would also be lowered?—The quality of work need not necessarily be lowered. Perhaps the language in which, for instance, a judgment is expressed might be lowered, but the general efficiency of the officers taken as a whole might be higher under the second state of affairs than under the first.

179. With respect to one particular department to which reference was made, namely, the Co-operative department, you said that mostly the employees in the Co-operative department are recruited from the rural classes because they have a greater knowledge of local conditions. You do not mean to say that non-agriculturists are totally absent from rural areas?—No, certainly not. There is also a further reason. One of the chief objects of the co-operative movement is to reduce the indebtedness of the agriculturists. It is therefore on the whole not an unfair presumption that an officer who is drawn, say, from the money-lending or business class would not perhaps be so good a co-operative officer as one who is drawn from the rural classes for whose benefit he has got to work. That is a point that has got to be taken, I think, into consideration. On the other hand, for some other services, say, industrial services, the urban officer would naturally be more suited than the rural officer.

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182. *Dr. Narang*: Did the Government issue any circular to the High Court with respect to the appointment of the subordinate judiciary?—Recently there has been correspondence between the High Court and the local Government regarding the appointment of subordinate judges and certain proposals put forward by the honourable judges of the High Court have been under consideration. Certain changes which they advocated have been accepted by the local Government.

183. The High Court protested against the letter of the Government asking the High Court to make the appointments of the subordinate judiciary on communal and tribal lines, is it so?—So far as I recollect they pointed out that discrimination or distinction in regard to various classes or communities must be subject to the employment of qualified men. That is a condition that is accepted by Government. The new rules now provide that firstly all persons who have passed in the first class of the LL.B. examination are eligible for appointment, and secondly all zamindars who have passed in the second class of the LL.B. are eligible for appointment as subordinate judges; but no person, either a zamindar or a non-zamindar who has not passed at least in the second class of the LL.B. is eligible. I do not think, as far as I remember, that the honourable judges have anywhere stated that a second-class degree of LL.B. is not a sufficiently high qualification for the post of subordinate judges.

184. Was this circular which is referred to on page 288\* (restricting to certain percentages the admission of students of the various communities and classes to the various colleges) issued with the concurrence of Government as distinguished from the transferred side of the Government and the honourable minister?—I cannot give a specific answer to that question. But I should say that such an order would certainly be issued by the local Government and the local Government in a case of this sort would mean the Governor acting with the minister concerned. But I cannot give a definite answer.

185. *The Chairman*: Do I understand that education being a transferred subject an order as it originated in the Education department will be issued as a result of consultation between the minister and the Governor?—Not necessarily every order; but an order of this sort containing an important question of principle would not ordinarily issue without His Excellency having seen the case. I think the question was whether the Minister issued it on his own authority or whether it was an order of the local Government.

186. *Sardar Ujjal Singh*: You know that in the police department selected persons in the provincial police service are promoted to the Indian Police service. Are provincial civil service men similarly promoted to the Indian Civil Service?—They are not actually promoted to the Indian Civil Service; they are promoted to what are known as listed appointments.

187. Some of the provincial civil service men are recruited by competition and some by nomination?—Yes, 2 vacancies in 16 are filled by competition.

188. Do not these provincial civil service men recruited by competition possess very high educational qualifications?—Yes.

189. Almost equal to those of the Indian Civil Service men?—I should say yes. I should say we get, on the whole, for the provincial civil service competitive examination probably the best men in the province except the very best men who go for the Indian Civil Service examination.

190. You said that you do not get the same class of officers by pure competition in certain departments. Will not that object be achieved if the men were recruited by selection by an independent expert body like the Public Service Commission?—In that selection would you pay any regard to class and community?

191. Certainly they will take into consideration whether that candidate possesses that aptitude necessary for the particular class of service?—I think it would be still necessary for Government in accordance with its present policy to tell a provincial services commission that it required so many officers of a certain community, so many officers of the second community, so many officers of the third community, and so on. I do not think the provincial services commission would do away with that necessity.

192. Does not the appointment on communal lines impair the discipline for the reason that such officers are apt to believe that they owe their duty first to their community?—I do not think that mere recruitment does that.

193. Recruitment on communal lines does not impair discipline?—I do not think the mere recruitment of 5 Muhammadans, 6 Hindus and three Sikhs out of a total of 14 affects one way or another the discipline or the attitude of the officer who is selected.

194. Supposing there was one vacancy and if that goes to a member of a particular community in preference to the other, will not the treatment in that case impair the discipline?—It is rather a hypothetical case.

195. Does not the system of communal representation in services give an opportunity to Government to favour one community as against the other and thus indirectly accentuate the communal differences?—It certainly gives an opportunity if Government chose to take it, but Government does not take it.

196. *Mr. Barker*, President of the Public Service Commission, says in his memorandum, "So far as suitability for public services can be judged at the age of 22 or 23, I see little or nothing to choose between the English or Indian candidates." Do you agree with that view?—It is quite impossible to express any opinion either about a European or Indian officer at the age of 22 or 23. It is really very difficult to express any opinion in regard to either a European or an Indian whether he is going

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to be a really good officer until he has put in eight or ten years' service.

197. *Sir Hari Singh Gour*: When a provincial officer is placed in charge of a district, does he get less pay than the Indian Civil Service man when he is similarly placed?—He does.

198. What is the difference in pay of the two officers?—There is no fixed pay for an Indian Civil Service officer in charge of a district. It depends upon his length of service. It may happen that a young civilian in charge of a district may be drawing less pay than the provincial civil service officer in charge of a district.

199. *The Chairman*: It depends, I gather, on his standing?—Yes. On the number of years of service.

200. When a provincial officer sits upon the High Court bench does he get the same salary as an Indian Civil Service man on the High Court?—I think he does. I cannot say definitely, but I am practically certain that he gets the same.

*Sir Hari Singh Gour*: All High Court judges get Rs. 4,000 a month, whether they are Indian Civil Service, provincial civil service or from the Bar.

201. As regards the provincial civil service, do you think that the standard of academic qualifications and efficiency have gone up in recent years? Do you get better men for the provincial civil service than you used to get, say five years ago?—Certainly. I wish to make it clear in the evidence I give that I cast no aspersion at all on the provincial service. They are an able body of officers. We have been able to raise the standard very considerably, not only in the past five years, but even during the past two years. We have recently introduced the rule that no one is eligible for appointment to the provincial civil service unless he is a graduate. Up to two years ago we used to take a considerable number of candidates of what we call the C class, that is to say, the candidates were generally men of good family, and of standing in the province, but they were not B.A.'s. We are now able to insist on a degree, and there is no scarcity of men of the same class, of men of the same social position and standing in the province. We are still able to get them, but they have got much higher educational qualifications than formerly.

202. Supposing you make progress at that rate, how long do you think it will take to raise the standard of the provincial service men to that of the Indian Civil Service men?—It seems to me that under any form of government—I mean even when there is complete self-government—it will still be necessary to have a superior provincial service corresponding to the old Indian Civil Service—whether it is still called the Indian Civil Service or not—and also another provincial service where the qualifications are rather less than those in the superior service.

203. Would there be ample materials to recruit for the superior services you speak of? Will there be ample materials in your province to recruit for the All-India services—we will call it?—Not at present in our province, if the Indian Civil Service examination is made the test. The Punjab has been singularly unsuccessful as regards the Indian Civil Service examination. If the Indian Civil Service examination were the only test for Indian candidates, then I am afraid the Punjab would come off rather badly. It would get filled by candidates from other provinces, which is not I think what the Punjabi would appreciate.

*Sir Hari Singh Gour*: You have said in paragraph 16, on page 293\*, that "In so far as the Reforms may have indirectly contributed to the growth of communal hostility from a struggle of the communities for political power, they have for the time at least added greatly to the work and responsibilities of the services." To what extent have they added to the work and responsibilities of the services? And do you refer here to all the services or only to the superior services?

204. *The Chairman*: May I suggest that the rest of the paragraph, as I understand it, really is the answer to that question. Is it not?—I think the answer is there, sir.

205. *The Chairman*: It is said in the same paragraph that "In districts where there are large towns, e.g. Lahore, Amritsar and Multan, the deputy commissioner has had to exercise for months at a time the utmost vigilance to guard against actual outbreaks, for at any time a trivial incident might occasion a riot, the after-effects of which would be felt for months," and so on. Is it not rather what you wanted?—The answer is that the security services have had to bear the greater part of the burden.

206. *Sir Hari Singh Gour*: What about the other services? You said "responsibilities of the services." You emphasise only the security services. Do I understand you to do that?—No, I think to a less degree communal factors have added to the work in other departments. They have added to the work in other departments, because if there is communal feeling in an office or in a department it does add to the work and responsibilities of the officer in charge of that office or department.

207. Then, there is an increase in the work and responsibilities all round? In the whole service?—Yes.

208. Though not to the same extent?—Yes.

209. Now, in your province recruitment has been I think on the basis of agriculturists and non-agriculturists?—For certain services; yes.

210. And the tendency now is as you point out that it should be on the communal basis?—The demand is; not the tendency.

211. The demand is that it should be on the communal basis?—Yes.

212. Supposing you acceded to the demand would it impair the efficiency of the services?—It does not seem possible to accede to the demand at any rate not entirely, because recruitment is not only by direct appointment to the services but also by promotion from the subordinate services, and when questions of promotion are under consideration you obviously cannot discriminate between Muhammadan, Hindu and Sikh. The best man, whoever he may be, gets the promotion.

213. I may take it that you are hopeful that there is no immediate prospect of the recruitment being made on communal lines in your province?—I do not quite understand.

214. There is a demand that the recruitment to the services should proceed on communal lines, and your Government is opposed to it.—What the Government is opposed to is taking the basis of population as the principle of recruitment. But as already explained it is one of the accepted principles of Government policy that no class or community shall get undue preponderance and in order to satisfy that condition it is obviously necessary that Government in its recruitment should pay attention to the communal factor.

215. What is the percentage of the depressed classes in your province?—There is not any depressed class here.

216. The untouchables?

*Dr. Narang*: 8 per cent.

*The Witness*: Have we got any untouchables in the strict sense?

*Rao Bahadur Rajah*: The figures are given on page 7 of the Punjab Government's memorandum.\*

217. *Sir Hari Singh Gour*: Has any special effort been made to alleviate these unfortunate depressed classes in your province? You have made provision for instance in your colleges and schools for 40 per cent. Muhammadans?—As far as I know there is no distinction between depressed classes and any other classes. The schools are open to all.

218. It is not a question of any distinction. I want to know whether any special facilities are given to these classes, seeing that they are so low down in the

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social scale, to bring them up?—I am afraid I have not got the information necessary to answer the question as to whether any particular facilities have been given or not. I think they probably have benefited largely by the general facilities given to everybody.

219. *Sir Zulfiqar Ali Khan*: Mr. Emerson, we have dealt practically with all the aspects of the services, but there is one point which from my point of view has been ignored, and that is this. I should like you to explain whether you give the different communities their just and legitimate share in the different services?—Might I know what you mean by "just and legitimate" share?

220. According to the population basis?—Government have not accepted the population basis as the criterion for recruitment.

221. Government then would not mind if any community goes unrepresented in the service?—Which service?

222. According to this rule which you have enunciated Government do not give employment according to the ratio of the population?—They have not accepted that principle.

223. From that I understand that supposing a community goes unrepresented in any service of the Government, you do not mind it?—I think the answer to that is on page 286,† paragraph 4.

*The Chairman*: You are asking the witness what is the policy of the Punjab Government. It is I think very clearly stated in the third paragraph on page 285.† \* \* \*

224. *Sir Zulfiqar Ali Khan*: What I want him to answer is this. Mr. Emerson, do you think that in all the departments of Government one community has not any undue preponderance over the other?—In any particular department of the Government?

225. I want to know whether in all the departments of the Government or in any department one community has not the preponderance over the others?—It is not the view of the Government that any community has undue preponderance. Government does not admit that.

226. Government say that they would not like to give undue preponderance to any community over the others. Is it not so?—Yes.

227. What is the real situation? Has not one community undue preponderance?—No; Government does not admit that one community has undue predominance in the service as a whole. Some slight changes in the communal distribution may occur as one community becomes more educationally advanced, and so on, but Government would certainly not admit the general proposition that any community has an undue preponderance in the departments of the Government.

\* \* \* \* \*

231. *Sir Zulfiqar Ali Khan*: What I mean is that the Muhammadan community has suffered all along for want of due representation in the different services. I would like Mr. Emerson either to deny or accept it.—I said that Government would make no such admission.

\* \* \* \* \*

233. Mr. Emerson, you said that in the promotion of provincial civil service men to the Indian civil service status you select the best men?—Yes.

234. Could you please tell me how many so far you have selected?—I am afraid I cannot tell you off-hand.

235. But there has been a steady increase in the number?—The policy is to increase the number of listed posts until I think in 1936 it will reach 20 per cent. of the total number of superior posts in the Indian civil service.

236. *Sardar Shivdev Singh*: Mr. Emerson, you just remarked that some correspondence had passed between the High Court and the Government as

regards the basis of recruitment in the provincial civil service?—Yes.

237. I could not hear how it resulted, whether the Government admitted the principle, or Government did not admit the principle as recommended by the judges of the High Court?—Which principle?

238. That communal consideration should not be given a place in the recruitment of the provincial service?—That was not the contention of the honourable judges of the High Court. The honourable judges never contended that. All that they pointed out was that communal considerations must be subject to the condition that the persons appointed should possess certain qualifications. And there has been complete agreement on that between the Government and the honourable judges.

239. That is a sound principle no doubt. So it is going to be acted upon with the concurrence of the Government and the High Court?—Yes.

240. Of course you would be glad to tell us that the constitution of the present High Court is such that there are honourable judges of the Christian, Muhammadan and Hindu communities at present?—That is a question of fact.

241. Is it a fact also that since the constitution of the present High Court, and before that the Chief Court, no Sikh has ever been appointed either as a permanent judge, or as an additional judge?—I am afraid I have no information as regards that, but I am quite prepared to accept your statement.

242. There has been a great deal of expression of opinion as regards the Indian Civil Service examination and the competitive examination. I would like to know whether examination is the only test of efficiency?—I should like to make this point clear. For our provincial civil service executive branch, the test of competitive examination is only used in regard to the recruitment of one-eighth of the total number of officers recruited; that is, two out of sixteen.

243. *Dr. Suhrawardy*: In reply to Lord Burnham you said that the deputy commissioner still continues to be regarded as a local providence. May I enquire if he still continues to be what we call the chairman or president of the district board, broadly speaking? In our province—and I hail from Bengal—we have the district magistrate who is ex-officio chairman of the district board?—Yes, in most cases. In two or three districts only he is not the chairman of the district board, but in the rest of the districts he is chairman of the district board.

244. Is he still being regarded as a local providence?—He has the opportunities of being so regarded if he wishes to take them.

245. In reply to *Sir Zulfiqar Ali Khan* you said that Government is not prepared to admit that there is undue preponderance of one community over another in the matter of appointments?—I said that this was so for all departments of Government taken as a whole.

246. Are you prepared to admit that in some departments of Government there is an undue preponderance of one community over another?—I could not answer without looking at the figures. Where there appeared to be any preponderance, efforts would be made to put it right in the course of recruitment. But obviously you cannot put it right all at once. You cannot dismiss men on that account.

247. I am only asking you about facts. When you said that Government is not prepared to admit it in the case of all departments, do you mean to say that your Government has attained the ideal of maintaining equity and justice?—I do not think it has; it does not claim to have reached that.

248. *The Chairman*: We are greatly obliged to you, Mr. Emerson. We have had rather a long session with you. It is time that we asked Mr. Stead in. Would you like to stay?—If any general question crops up as regards law and order, it may be necessary for me to answer it. I should like to stay but only with a watching brief.



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Mr. CHARLES STEAD, C.B.E.

**Mr. CHARLES STEAD, C.B.E., Inspector-General of Police, Punjab.**

\* \* \* \* \*

251. *The Chairman*: \* \* \* You became Deputy Inspector-General of Police in 1925, Inspector-General of Police in the North-West Frontier Province in 1927 and Inspector-General of Police in the Punjab in February, 1928?—Yes, sir.

252. I would like just to get two or three facts. Will you tell me in round figures what is the size of the police force in the Punjab?—About 22,000.

253. As we all know from reading these books, the population in the province is something like 20 millions and a half?—Yes, something like that.

254. That seems to show that you have got one policeman for something under a thousand inhabitants?—That is so, sir.

255. Looking at it from the point of view of area, the area of the Punjab is I think about 92,000 square miles?—Yes, sir.

256. You get one policeman for every four square miles?—Yes, sir.

257. Then we have learnt to-day that the province is divided for police purposes into three ranges?—Yes, sir, each under the charge of a Deputy Inspector General of Police.

258. Is there a fourth Deputy Inspector General of Police?—Yes, sir, he is in charge of the Criminal Investigation department.

259. In the police service could you tell me how many All-India officers there are? I think the figure must be in the book here on page 295.\* It is 109 Europeans. Speaking generally, what sort of positions in the police organisation do those All-India officers hold—they may of course be Europeans or Indians?—The Assistant Superintendent of Police is an Imperial service officer who serves under a superintendent. The Superintendent holds charge of the district and as I said before the District Superintendents are under the Deputy-Inspector General of the respective range.

260. Then we may take it at present that in the All-India Police Service there are the Inspector-General, the Deputy Inspectors-General, the majority of the District Superintendents, and in most cases the Assistant Superintendents?—All the Assistant Superintendents belong to the Imperial service.

261. So much for the All-India officers. We are told that there are other gazetted officers?—There are Deputy Superintendents—provincial service officers—they are about 47 to 50.

262. Is that again taking the same range like the Assistant Superintendents? I am not clear whether 47 Deputy Superintendents would go higher than the Assistant Superintendents?—They are lower, sir.

263. Then there are officers subordinate to them?—We have inspectors, sub-inspectors, etc.

264. Those are the grades. What is the rank of the officer who is responsible for a particular thana?—It is the sub-inspector.

265. Of course you have got a lock-up in the thana?—Yes, sir.

266. I do not think we shall probably desire to go into the details of the Lee Commission, but I would just remind the Conference that the Lee Commission recommended that there should be a working up to a 50-50 proportion in the All-India service of police. Is that scheme being applied to the Punjab in your service?—Yes, sir.

267. I would like to know what is the year by which you propose to get the 50-50 proportion?—I am afraid I do not know, sir. I know the number of Indians and Europeans to be recruited every year is settled by calculation by the Government of India.

268. How do you recruit your rank and file?—The recruitment in the rank and file in the district is made by the Superintendent of Police.

269. Mr. Stewart tells me that the Lee Commission recommended that you should reach this 50-50 pro-

portion in the case of the All-India service for police in 25 years' time, in 1949. You are saying that the rank and file are recruited locally. When we were in Bombay the other day we were told something about there being an armed and unarmed police there. What do you do in the Punjab?—We have no separate armed and unarmed police. They all bear arms in due course.

270. I think so far as I am concerned I only just want to ask about two matters more, both very grave and important matters. First of all, I should like to know to what extent in your experience the tension of communal feeling permeates the police force itself?—To a very little extent, almost negligible.

271. That is very good. Do you mean that the policeman does his duty without being deflected by communal feeling?—That is so, sir. I can give you an example. The other day in the Gurgaon district in connection with cow slaughter the police were unfortunately compelled to fire. Of the policemen who fired, 11 were Hindus and 10 Muhammadans; and they all fired on the Hindus.

272. The point is there is no difference in their willingness to discharge their duties, i.e. to obey orders. You will appreciate that we are anxious to get your candid view. Granted that there is a great deal of communal feeling in this province, do you find when you are recruiting or training your men that it is in itself a disintegrating element in the efficiency of the force itself?—There are difficulties in getting Hindus to come in. The Hindu considers his services rather more valuable than the Muhammadan in the same class, but recently since we improved the pay and prospects of our constables in the lower ranks we have been able to get Hindu recruits much more freely than before.

273. *Lord Burnham*: You get Jats?—Not to the extent we would like. The Jats are recruited very largely for the army.

274. *The Chairman*: You explained just now that you have not got here the system of armed and unarmed force. Is every policeman put through training with arms?—Yes, sir. He may be employed in clerical duties, but in due course of time he goes to the armed duties again.

275. Why do you pass each policeman through the armed reserve?—Well, we find it convenient. In the past as a matter of fact the Punjab Police was a force formed of the old Sikh *paltans*. When we took over the Punjab from the Sikhs we took over some ten or twelve police regiments and those were distributed around the districts. They formed our police forces. They took part in quelling the mutiny and from that time we have armed police forces.

276. The other question I must ask has to do with irregularities in the force, what is bluntly called corruption. I wish you just to give the Conference the benefit of your experience and observation, anything you can properly and fairly tell us on the subject of corruption, in the force, and the extent to which it can be effectively dealt with?—That there is corruption cannot be denied. It is not universal—by no means. We have a large number of honest officers. But taking of money in certain ways is a custom in this part of the world—in business and professional life too. It is a part of the life of the people.

277. Perhaps it is possible to regard office either as a career or as an opportunity. Is that it?—Quite so, sir.

278. I do not wish to do more than ask you whether in dealing with this difficult subject of corruption you think that has got anything to do with it?—Yes, I am afraid government servants of lower ranks are inclined to regard service as an opportunity rather than a career. I do not wish this to be applied merely to my own force.

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[Continued.]

279. I suppose that there must be many under you in the subordinate posts in whose probity you have no doubt at all?—There are, sir; many.

280. Well, I want to know what in fact is done to discourage this. Do you find in practice it is possible to deal with such cases?—We deal with a great number of cases. There are statistics. They are repeated in the legislative council from time to time by the honourable Member in charge of Police.

281. *The Chairman*: We have been promised by Mr. Emerson that he would supply us with statistics. Wherever this kind of thing is able to exist—and no doubt it exists to a greater or less degree elsewhere—it is extremely difficult to find out and to prove. You take action I suppose only when your department is satisfied that a case is one for disciplinary action?—Yes, sir. But we find that judicial proceedings in these cases are invariably abortive. They may be convicted in the original court, but if they happen to appeal to the sessions court they may get the sentences reduced, and if they try the last resort they are almost certain to be let off by the High Court.

282. Do you conduct departmental investigations? Yes. They are what are called departmental inquiries. The charge is framed against the accused officer, he is called upon to produce his evidence, he is given the chance of examining the witness produced against him. It is all done departmentally by his own officers who write out the findings. Cases concerning the lower ranks are disposed of by the Superintendent of Police. But the man has an appeal to the Deputy Inspector-General, and if he is unsuccessful there he can ask the inspector-general to take up the case on the revision side. He has a fair trial.

283. Have cases arisen which you have considered require disciplinary action in ranks above the rank of ordinary policeman?—Last year, I think, we dismissed five or six sub-inspectors for corruption. We have, if I may say so, taken more action as regards corruption not only now but for some years past than any other government service in this province.

284. Without going into great detail, I wish you to just give us some slight indication of the form that corruption usually takes—there is presumably the receipt of money or money's worth—but what is money paid for?—It is a very long story really. There are different forms of corruption. There is one known as *shukrana*. A man may have a false complaint brought against him. At the police station he may be charged of theft or abduction or something like that. The sub-inspector makes enquiries but finds that there is no case against him and he lets him out. If that sub-inspector gets gratification for doing so it is called *shukrana*.

285. *Sir Zulfiqar Ali Khan*: Is it because he is elated that he pays?—He is so pleased and overjoyed that he expresses his gratitude in a tangible form.

286. *The Chairman*: I think if it was done systematically it might certainly be regarded as analogous to corruption. Of course it very easily leads to the opposite situation that unless something of that sort is done it may be all the worse for him.—We do not condone even that particular form though it may not be absolutely sheer corruption.

287. *The Chairman*: I should like to repeat the observations which I made earlier in the day. I gathered that you take the view—either for historic reasons or for whatever reasons there may be—that this unhappy situation is rather deep-rooted here. It follows—does it not, Mr. Stead—that it cannot possibly be attributed to some recent constitutional change or anything of that kind?—In no way.

288. And of course, Law and Order being at present reserved, it has nothing in the world to do with their transference?—Nothing whatsoever.

289. It goes without saying that you and your subordinates do your best to stamp it out. If you feel you can, I should be glad if you can tell me how

far you think that the presence of what I may call the “neutral,” I mean the British officer, is helpful in stamping it out—I do not for a moment suggest that there are not Indian officers who are not equally keen to stamp it out but I want to know whether in your view the neutral who is in some position of importance assists or strengthens the machinery to stamp it out?—It is, sir, a decided advantage to be neutral. The man who is being run in for bribery cannot say that this officer has run me in because he is either a Muhammadan or a Hindu.

290. You see it is not enough that you should have a machinery for ascertaining such incidents, but you must have a machinery which will without any compunction deal with them severely.—Yes, sir.

291. From that point of view I should like to have your own view.—The actual fact is—as far as this province is concerned—that there is so much in the way of *sifarish*, i.e. recommendation. An Indian officer would have all sorts of people coming round to him, through his relations and through his friends, imploring him to spare this man and that man, saying that he has so many children and that if he were dismissed his family would starve. The Indian officers have a very uncomfortable time; so much so that I have frequently been asked by some Indian officers to move them to districts far away from their homes so that their relations and friends will not like to pay railway fares often in order to see them.

292. If you want to add anything which would be of help to us—because it is a very important subject—please do so.—No, sir.

293. *Captain Sikandar Hayat Khan*: Mr. Stead, you said that the status of the assistant superintendent was higher than that of the deputy superintendent. You meant, I think, the status of their service. But will you please say whether they have got identical duties to perform?—They do more or less the same duties.

294. With regard to recruits—about the communities which have not been so far represented in the ranks. Is it not a fact that the Sikhs prefer to go to the army like the Jats?—Yes. At present we have got a good number of Sikhs owing, I think, possibly to the recently introduced short-service system in the army. While I was in Amritsar recently, I found that in a batch of recruits the majority were Sikhs and educated Sikhs too.

295. You are getting educated people in the rank and file in a larger proportion?—Yes, a considerably larger proportion.

296. With regard to action against corrupt officers, do you not feel that there is difficulty in getting evidence whenever you want to start an inquiry, whether judicial or departmental?—There is a certain amount of difficulty if it is judicial, but if it is departmental it is not so difficult because in that case we are not bound by the ordinary law of evidence.

297. Do you not feel that the departmental procedure is cumbersome as the judicial proceedings are sometimes abortive?—They are sometimes cumbersome but they are not frequently abortive. I have myself as Superintendent of Police never found any great difficulty in dismissing a corrupt officer. You see, you can observe his work, make personal investigations, find out the irregularities he commits and thus can bring proof against him which he would find it very difficult to get out of even with any amount of defence evidence.

298. Do you not think that if you have a procedure similar to that in the military—I refer to court martial—it would be more effective in checking this tendency to corruption?—I do not think they would probe the thing in the same way as an officer who is put on to hold an inquiry would; he would prove to be much better than three or four officers sitting down together.

299. *Dr. Narang*: You will see on page 204,\* paragraph 70, there is a reference to the opinion

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[Continued.]

"that the force as a whole was somewhat overbearing in its attitude to and treatment of the public and considered itself as under the special aegis of the Government and not in the light of a servant of the public." Do you think there is any justification in this criticism?—There is some justification in it and there is some want of justification for it too. I mean to say that the people who complain that there is considerable overbearingness in the policeman should remember that if they were in his place they would be equally overbearing.

*Lord Burnham*: The complaint is made in every country in the world.

*Dr. Narang*: We at least are admirers of the policeman in England; we think him to be an angel. I can honestly assure you that that is the impression that an Indian who visits England has.

*The Chairman*: They also give trouble you know.

300. *Dr. Narang*: Are you taking any steps to remove this impression from the minds of the public?—Certainly.

301. Have you met with any success?—I should say that we are not very unsuccessful in our efforts. We are trying to impress on the constable that he is not merely *sirhari naukhar*—he is not merely a Government servant—but a servant of the public.

302. Have you found from recent occurrences that your lessons had any effect?—One now finds that he is not always complained of.

303. You said that the police is not deflected from its duty by inter-communal feelings. I believe you were the head of the department in 1926 and also in 1927?—In 1927 I was in the Frontier; in 1926 I was on leave most of the time.

304. You know something about the Rawalpindi and Lahore riots of 1927?—I was present in Lahore during the riots of 1927.

305. Were any complaints made to you about the conduct of the police with regard to their communal bias and so on?—Yes, we had complaints from Hindu quarters against Muslim constables and from Muslim quarters against Hindu constables. We were also told that the investigation officers were largely Muhammadan and were spoiling the case and we had also similar complaints from the Muhammadans against the Hindu staff.

306. What about the lower ranks, the constabulary? Did you not receive any complaints that they had actually taken part in rioting, beating the Hindus?—Complaints were made certainly, but they were enquired into and they remain entirely unsubstantiated.

307. Did you call for evidence on that point?—An enquiry was made.

308. Did you give an opportunity to the complainants to produce evidence?—They were given every opportunity to prove their case.

309. And nobody came forward to give evidence?—I really cannot say. I was transferred at the end of the riots; but an enquiry was held, I know, with the result that none of these charges were proved. They were very vague charges to the effect that the police constables had actually participated in the riots, that, for instance, the Muhammadan constables had been rioting and beating Hindus and the Hindu constables had been rioting and beating Muhammadans. These sorts of complaints were made and no real foundation was discovered after enquiry.

310. Was this enquiry made by your own officers?—Yes, it was by our own officers.

311. You say that now you are getting a fair number of Hindu recruits. I have taken a very special interest in the recruitment of Hindus in the police, as you know, in the last two or three years; I receive complaints that they are still not enlisted whereas you say you are now getting them in good numbers. How do you reconcile these two positions?—I shall be very glad to hear any specific complaints. I am particularly interested in the question myself.

312. One of the causes mentioned is this; that the Hindu recruits are examined by Muhammadan

head constables or sub-inspectors and are declared unfit by them.

*The Chairman*: The actual recruiting, I suppose, is done in the districts where it will be the District Superintendent of Police who decides. I do not appreciate the point that it will be decided by people of the rank of sub-inspectors or head constables.

*Dr. Narang*: Suppose a candidate offers himself for recruitment. He either puts in an application or presents himself personally. The superintendent then perhaps directs the inspector or the sub-inspector or even the head constable, whoever happens to be on the spot, to examine the applicant by way of measuring his chest and so on. The complaint is that sometimes it is stated that the chest is shorter by one inch, his height is less by two inches, his stature is short and so on and then he is declared unfit.

313. Will you please tell us whether any specific instructions have been issued for the increased enlistment of Hindus to the police?—Yes, instructions have been issued.

\* \* \* \* \*

315. Is there any community which is totally excluded from recruitment to the police? Are the depressed classes taken into the police service?—No.

316. Why?—For various reasons. One reason is that the men would not tolerate them; another thing is that the depressed classes are the most criminal classes in the Punjab.

317. All depressed classes?—Yes. The Musallis for instance.

318. They are not depressed classes in the sense that they are untouchables. Take Megs for instance, they are looked upon by the Hindus as untouchables but there are weavers and farmers among them by profession. Take the Batwals; there are a large number of them in the Sialkot, Kangra and Hoshiarpur districts?—We do not enlist low class people in the Punjab as a matter of recruiting policy.

319. Have no representations been made about this that this bar of birth should not be allowed to stand in the way of their seeking a career in the police?—I have had no representations.

320. Nor any public criticism of this?—I am not aware of any.

321. *Sardar Ujjal Singh*: There is now of course a greater proportion of educated men in the police than before. Have they proved more efficient than the illiterate people?—It is rather a hard question. It depends upon the work they are called upon to carry out. The illiterate man, the countryman, has many valuable qualities which are absent in his brother who has gone to the town and is educated. One thing is that observation is very much more highly developed in the agricultural labourer than in the boy who spends his time in the school.

322. Suppose he received his education in the rural school, then will he be better equipped for the police service than his illiterate brother?—On the whole the literate man if he has the required physique is better than the illiterate man; but I would not bar the illiterate man from recruiting. He has many very valuable qualities. The literate man has no need to memorise; the illiterate has to memorise. He has to carry everything in his head and his observation is extraordinarily keen. If you came across our trackers you would not find a single tracker who is literate. If you put them to school they would not be so capable as they are now.

323. Education affords facility?—On the whole the literate man is preferable; but I would deprecate any attempt to bar the illiterate from joining the service.

324. Other things being equal you would give preference to the educated man?—Yes.

325. *The Chairman*: An observant policeman who could read and write is presumably better than an equally observant policeman who cannot read and write?—Yes. We teach our illiterate recruits to read and write.

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[Continued.]

326. *Sardar Ujjal Singh*: In answer to a certain question you said that you are adopting some measures to check the overbearing attitude of the police force. Have you noticed any appreciable improvement in this attitude?—I think there is an improvement.

327. *Chaudhri Zafrullah Khan*: What is the present pay of the police constable in the ordinary grade?—He starts on Rs. 17 and goes to Rs. 20 and when he goes to the selection grade he goes up to Rs. 28. This is the pay ordinarily in the districts. But this varies. In Lahore for instance the pay of a constable begins at Rs. 22.

328. What is the average number in an ordinary policeman's family?—I am afraid I could not tell you, three children probably.

329. Do you not think that corruption in the lowest ranks might be due to the fact that Rs. 17 per mensem does not furnish a living wage?—Rs. 17 per mensem is no doubt a very tight fit for a man to feed his family and provide clothes. It is certainly open to the construction that you put on it.

330. Since when has the pay been raised to Rs. 17?—I think it was in 1920.

331. Where does the sub-inspector start?—He starts on Rs. 80 and goes on by increments up to Rs. 160.

332. And the inspector?—He starts from 180 and goes on to Rs. 300.

333. Does the Rs. 80 for the sub-inspector include his horse allowance?—He has a horse allowance in addition.

334. Corruption is one thing. Are there frequent complaints of torture during investigation?—Not now as there used to be. They do occur.

335. They still occur?—Yes, they do still occur.

336. In one or two cases it has been alleged that the men died under torture?—There was one case. You are probably alluding to a Wazirabad case.

337. What steps are being taken to obviate that kind of thing?—Those men are sent up for trial.

338. I am not referring to particular instances. What steps are taken to make them impossible generally?—To punish it when it is discovered.

339. But does it not happen that when cases go into court, cases of allegations of torture against police officers, in a very large number of cases there are acquittals?—A very large number of allegations are false. They are merely introduced by a trick of the counsel. To impugn an investigation it is a very common thing to make allegations of torture, and it is really more common among the really hardened criminal classes. The habitual criminal is almost bound to allege torture when he goes into the court.

340. I put another aspect of the case to you. Do you not think that your ordinary sub-inspector who has got to investigate these cases—cases even of murder—has got very little detective training and therefore he has got to resort to the direct method?—Not the sub-inspector.

341. What kind of detective brain does the sub-inspector get in order to detect crime?—Of course he has the particular brain that God has given him. We cannot take any steps in that direction. I agree that the detective brain is a peculiar kind of brain. We take in a number of men. They have not all got that detective brain. We cannot help that. We can train it to a certain extent.

342. What is the detective training which is given to station house officers?—First his training is of course at Phillaur where he learns the principles, and he has observation classes and he is taught the ordinary methods of investigation. Then he goes out to the districts and is trained under another sub-inspector who is a qualified and reasonably expert detective officer himself. He goes about with this officer on investigations, and that is the way he becomes in due course a fair investigating officer. In five or ten years an ordinary man becomes a very fair investigating officer. There is the man who is naturally a good detective officer, and there is the man who will never be.

343. How long is the training at Phillaur?—One year.

344. During which observation classes occupy how much time?—Observation classes go on practically every day of the working days. I cannot give you the actual hours.

345. In addition to observation classes is any police officer or any class of police officers trained in a more technical kind of detective work? For instance, you detect by the identifying marks made by thumb impressions, by following any clues that might be furnished by smell or other things that might be left on the scene of the occurrence. You analyse blood marks?—They are not chemists. They cannot analyse. We have a gentleman who is known as the Imperial serologist. All such marks are sent to him for examination. They are all trained in finger prints—the whole lot.

346. Is there any training given in photography, so that if a sub-inspector wants to preserve the condition of the place or person where or in regard to whom an offence has been committed he can do so?—We have a photographic bureau of our own, and a good many sub-inspectors do know photography. It is a hobby. And the services of local photographers are always used when necessary.

347. Do you think a local photographer is available at all police stations?—If a sub-inspector wants one he can get one.

348. *Dr. Narang*: I have read your memorandum, Mr. Stead—I mean the memorandum submitted by the police.—It is by Government.

349. There is a memorandum submitted by the police officers, not by Government. The Imperial police officers have submitted a memorandum.—I have not seen it.

350. They have laid great emphasis on this, that their department should not be transferred to the ministers. Do you agree with them?—I agree.

351. And your reasons?—It depends on what exactly is meant by "transfer to ministers."

352. I shall explain to you. You know there are two sides of the Government—one reserved and the other transferred. There are certain subjects which have been reserved and others which have been transferred to ministers who are responsible to the legislative council. Law and Order have not yet been transferred, and yours is a department on the security of which the maintenance of law and order depends. And the members of the Imperial police service have memorialised the Commission that their department should not be transferred to the ministers as they fear that the police will also become a pawn in the political game and officers will be very much hampered in the honest discharge of their duty, because if they take some action, pressure might be brought to bear upon the minister in charge of the police and they might get a censure which they do not deserve and which they would not have got if political forces had not been at work. Do you agree with that?—I am not in possession of the views of my Government on this subject.

*The Chairman*: But I think you can tell us your views.

\* \* \* \* \*

I am really giving the views of my Government. I am not in possession of the views of my Government on the point raised by Dr. Narang.

354. I appreciate you will not be giving the views of your Government; you were giving your own views. I hope you will give us your views.—Very well, sir.

355. What is your view?—It depends on who would be the minister. If the minister were a permanent Government official I should view the police becoming a transferred subject with no apprehension. If he were a politician, a political minister, I should view it with the gravest apprehension.

*Dr. Narang*: Why? He would be a politician who would be responsible, and he would be removable by a vote of censure.



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[Continued.]

*The Chairman*: I perfectly understand that in this matter you (to the witness) are not speaking of course for the Government. But after all we have before us a gentleman who has had long experience and I think Dr. Narang is perfectly right in asking for your reasons.

356. *Dr. Narang*: The Conference would like to know the reasons for your apprehensions in case a minister who is a politician is called upon by the Governor to form a ministry?—A politician is dependent upon his supporters, his voters, and he will be called upon to comply with all their combined and individual demands. That is the drawback. A permanent official is not under that disability. His post is permanent and he has not to look to his voters for his future.

\* \* \* \* \*

358. *Dr. Narang*: Do you think that the police would be safe from the influence of political bodies, voters and ministers and politicians, if it were made a central subject under the Government of India? Take the Income-tax department for an analogy?—I do not think that it is practical politics. The police must be under the undisputed control of the Governor of a province in which they serve. I believe that such a system obtains elsewhere, but I am quite sure that it will not suit this country.

359. But supposing it is to be transferred to popular control, would you like it to be transferred to the local politicians' control, or to the central popular Government if it is inevitable? Assuming that it is to be transferred, what would you prefer?—I have not considered that point.

360. *Mr. Owen Roberts*: We have been told that the deputy commissioner is at the head of the police in certain directions?—Yes.

361. Would you tell us how that works out in practice?—That again is a very long story. It is all laid down in our police rules and regulations. I might refer you to that, Mr. Roberts. I will give you a copy, if required.

*Raja Narendra Nath*: It is an example of diarchy depending upon co-operation between the district magistrate and the district superintendent of police.

*The Witness*: To put it very briefly, Mr. Roberts, the district magistrate is concerned with questions of policy where the police are concerned largely, but he does not interfere in their internal affairs. The internal affairs, as for instance discipline, clothing and equipment, are all in the hands of the superintendent. But the district magistrate is responsible for the peace and law and order of his district and he therefore must have a great deal to say about the working of the police. It is all laid down in different rules and regulations and it will take me a long time to explain it.

362. *Mr. Owen Roberts*: If the district magistrate is responsible for policy, it is largely a matter of judgment, you see?—Yes.

363. When you have cases of very senior police officers acting under joint district officials, do you think that it is a very desirable condition?—It is awkward. I never had experience of it myself; so perhaps I am not in a position to say very much about it.

364. There is one other question I would like to ask you. Is the superintendent of police ever called upon to express, or does he in actual practice ever express an opinion on the work of the magistrate?—No; never.

365. *Sir Arthur Froom*: Arising out of a question put to you by the Chairman on the troublesome business of corruption, I think you have explained to the Chairman how an accused, possibly a guilty person, might get off at a police station by bribery and be let free. Now, have many cases of rather the converse description come under your notice where police had brought forward trumped up cases because they had not received some bribery? Is that frequent?—That is a very rare form. I had never had one brought to my notice.

366. *The Chairman*: I do not know whether this arises in practice—I hope not—that is, bringing of a false charge for reward by somebody. What about that?—It is very rare, sir.

367. *Sir Arthur Froom*: Of the three forms that we discussed briefly, was there any improvement for the last ten years, or do they stand still, or worse?—I think on the whole there is an improvement.

368. There is just one more question that I would like to ask you. It arises out of a question put by one of my colleagues opposite. Do you prepare your budget?—Yes.

369. And it is sent up to the Home Secretary?—Yes; it goes to the Financial Secretary.

370. Do you find that for the service of the police in the Punjab you get all the money that you enter in your budget?—Not all the money.

371. How does that happen?—The Punjab Government and the police have to cut their coats according to their cloth.

372. It is worked departmentally and is votable. Is that not so?—Yes; most of the police expenditure is votable.

373. *The Chairman*: I had understood that broadly speaking—if I am wrong in any way I am sure my friends on my right will correct me—that when the time came to put together the budget of the year, which in this country really means the way in which the money will be spent, though in Britain it does not mean the way how the money is spent, but where the money is raised—(*The Witness*: It is the same here)—what happens is in the first instance that the different departments, whether reserved departments or transferred, put forward their estimates or demands, whatever it may be. And I have understood that in Bombay when you first have these things brought together, no doubt the total will be more than the amount available. That is natural enough. Everybody asks for more than he is likely to get. First of all the preliminary adjustment is discussed between the departments, and ultimately, before any question of the demand being put to the legislative council arises, the Government as a whole will have to take stock and see how much each department is to get out of the total balance. After that it is that the vote arises. Is that correct?—Yes.

374. *Sir Arthur Froom*: I am not very familiar with the practice in the Punjab. The police money comes under demands for grants?—I really cannot say.

*Mr. Emerson (Chief Secretary)*: I think the description that the Chairman has given is correct except that after the Government as a whole has dealt with it and decided what sum would be devoted to the various departments and before it goes to the vote of the council it will go before the Standing Finance Committee for consideration of any new expenditure that is proposed, and cuts may be advised by the Standing Finance Committee; and then Government may decide whether it would accept the advice of the Standing Finance Committee or still keep up to their original proposals in the budget and send it on to the council.

*Sir Arthur Froom*: It cannot come under different heads, nor under Home expenditure.

*The Chairman*: I intervened because you put the question, and a natural question enough. You said: "You do not get all the money. Why not?" "Is it not voted?" As I had understood it, before the time comes to propose to the legislative council the sum which will be voted for police purposes, there has already been a preliminary discussion, with the result of course, I imagine, that although the Member in charge of the police department may very well have asked for a larger sum of money, he ultimately finds that in the course of the distribution of the available funds among the various departments he gets only a smaller sum than he had originally asked for, and the only thing the legislature is asked to vote is the smaller sum. We

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[Continued.]

had for instance in Bombay one observation made by the Inspector-General when he was cross-examined by one of the Bombay Committee as to why he reorganised the police force, cutting down the unarmed force and increasing the armed force; he replied that it was because his department could not get all the money it wanted and that he had protested that he could not manage until he had more money, and when he was asked to do it, he said the only way in which he could do it was to dismiss the people in the unarmed service and have a smaller number of men who are armed. That is my recollection.

375. *Sir Arthur Froom*: Yes. (To the witness): After the demands for grants for the police had been subjected to the scrutiny of the Finance Committee and further scrutinised by the Government, has it ever occurred that when any demand goes forward, that has been further reduced by the Council?

*Mr. Emerson (Chief Secretary)*: I may answer that. I have just been looking to cuts which have been made at pages 69\* and 70\*, and I cannot find any reference to any cut by the council once the police budget has been presented there.

376. *Chaudhri Zafrullah Khan*: In 1927-28 a large increase was voted under police expenditure, but the criticism was that more was not given to the constables.

*Mr. Emerson*: I think I should like to say that as far as I can see there is no mention of a cut in anything I have gone through. I think I am correct in saying that the legislative council has not made a cut in the police demand for grants of a serious nature and during the last budget grants they certainly voted large sums for the improvement of the police, in regard to proposals that emanated from a commission or rather, I think, a committee that was appointed by the local Government to enquire into certain very important questions relating to the reorganisation of the police. I do not think the local Government have any ground of complaint against the legislative council that they have not treated the police generously in the way of provision.

*Dr. Narang*: Except once when the whole police budget was thrown out.

*Mr. Emerson*: Was that particularly aimed at the police?

*Dr. Narang*: Against the general administration, not the police demand.

*Mr. Hartshorn*: I notice on page 204\* it is stated: "The annual budget for Police expenditure has invariably been the subject of very close scrutiny by the Council every year; and while its presentation has been taken as a recurring opportunity for an attack as regards inefficiency and corruption in the force, the actual cuts proposed each year, except in 1923-24, when cuts were carried totalling Rs. 45,000, though debated with a considerable show of heat, were in the end either not pressed or not carried." It appears that except in 1923-24 the proposed cuts were withdrawn.

*Rai Sahib Chaudhri Chhotu Ram*: There was a general 25 per cent. all-round economy.

*The Chairman*: I think it is right to conclude the sentence read by Mr. Hartshorn: "and the good sense of the council, after putting on record an emphatic gesture of dissatisfaction, has rallied to support the Member in charge of the department and to pass the demands."

*Sir Arthur Froom*: I wanted to know whether the police force did get full support in the Punjab. That was the real object of my putting the question.

377. *Rao Bahadur Rajah*: Arising out of your answer to the question put by Dr. Narang you said that members of the depressed classes are not recruited in the police service. Am I to understand that members of the depressed classes, I mean the untouchables, are eternally barred from entering the service?—I cannot prophesy. Their recruitment is impracticable.

378. Why?—Because of the customs and habits of the people of ordinary castes.

379. Am I to understand that there is opposition from the higher castes towards the recruitment of depressed classes into the police service?—Certainly. If we recruited these men into the service, we would find that we could not get the higher castes to come in.

*Rao Bahadur Rajah*: In the Government report I see there is no untouchability in the Punjab. It is stated:—"the problem of untouchability so far as it exists in the Punjab is really based on occupation. The sweeper who gives up his occupation, the leather worker who abandons the use of undressed hide and works in tanned leather, or abandons the use of leather altogether and seeks another occupation, thereby quite definitely raises himself in the social scale" (page 9, para. 22 of the memorandum).\*

380. *The Chairman*: We must not get into a general discussion. Let us hear the Inspector-General first of all. What do you say about it?—I say, sir, that it is not practicable to enlist low caste men into the police force in the present circumstances. Whether it will be possible in the future I am unable to say.

381. Are you basing yourself on mere opinion or basing yourself on experiment?—We have had some experiments made. Just towards the end of the war we enlisted about thirty or forty of what are known as Mazhabi Sikhs of the low castes. They belonged to the depressed classes. We could not get men at Lahore to work with them and we finally sent them up to Simla, all by themselves, to be the guards at Government House. There they mutinied. They beat the washermen, gardeners and other people. I happened to be in Simla at that time and I sent them away at once. That was my personal experiment in recruiting low caste peoples.

382. *Raja Narendra Nath*: Are not depressed classes rather better treated by the Arya Samaj?—They may be by degrees.

383. So far as touchability is concerned?—The Punjab does not make a fetish of untouchability. I may say that our constables, whether Hindus or Muhammadans, sleep in the same barrack.

384. *Rao Bahadur Rajah*: You know *chamars* of this province. They form the major population of depressed classes. Have you tried amongst them?—No.

385. *Sardar Shivdev Singh Uberoi*: As you know there are units in the Army composed of Sikhs, Jats, Mazhabis, etc. Are you aware that the battalions composed entirely of Mazhabis have proved very useful in the Army?—Excellent.

386. Is there any reason to suppose that they will not do well in the constabulary force?—They are more than ordinarily criminal.

387. When they proved so useful in the Army is there any reason that they should not prove as useful in the constabulary force?—Constabulary forces are not altogether the same as the Army. We have statistics showing that the Mazhabis are more than ordinarily criminal.

388. Are they entered as criminal tribes?—No.

389. What reason is there to call them criminals then? What is the basis of calling them as such?—They are relatively criminal. We have statistics to show that.

*Sardar Shivdev Singh Uberoi*: I should be much obliged to have the statistics, because it is a very important class of the Sikhs. It is quite information to me that the Mazhabis are criminals although they have not been entered as criminal tribes.

390. *The Chairman*: The Inspector-General will furnish the information. I noticed that Mr. Stead was saying that he does not recruit depressed classes for the police because the other policemen would not work with them. The Inspector-General of

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Police of Bombay gave another ground. He said, "the difficulty was because, for example, if a policeman belonging to the untouchable class went to search the house of a Brahmin, the Brahmin would object to the policeman's coming into his house." You have not given any reason of that sort?—We should have considerable complaint. We have

high caste *Dogras*. We should have considerable difficulty in escorting a Dogra by a sweeper constable.

391. *Lord Burnham*: May I ask a question on a matter of fact? At the present moment are all the Deputy Inspectors General of Police in the police ranges Europeans?—They are all Europeans.

## LAHORE.

Dated, 2nd November, 1928.

Morning.

PRESENT:

ALL THE MEMBERS OF THE COMMISSION (EXCEPT COLONEL LANE-FOX), OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND AND SIR ZULFIQAR ALI KHAN), AND OF THE PUNJAB PROVINCIAL COMMITTEE.

Mr. MILES IRVING, C.I.E., O.B.E., I.C.S., Additional Secretary to the Government of the Punjab, Reforms, and Khan Bahadur Nawab MUZAFFAR KHAN, Joint Secretary to the Government of the Punjab, Transferred Departments.

1. *The Chairman*: Mr. Miles Irving \* \* \* \* \*  
did you become Financial Secretary to the Punjab Government in 1922?—Yes.

\* \* \* \* \*  
\* \* \* \* \* You have been detailed, I think, for special duty in connection with preparing a great deal of the material for the information of the Commission?—That is so.

\* \* \* \* \*  
Might we \* \* \* \* \* turn to page 57,\* where you set out the composition of the Punjab legislative council.

\* \* \* \* \*  
140. With regard to para. 11, which the Chairman read out to you, can you tell us whether this idea that the interests of tenants will be represented by many small landowners has been achieved?—The relations of the landlord and tenant differ very much in the various parts of the province. If you take a man in a canal colony and give him twenty-five acres of land, he is quite a poor peasant, but he will cultivate twelve and a half acres himself and will not employ labourers to cultivate the other twelve and a half; he will let it out on rent. Therefore you get a type of tenant who is socially indistinguishable from a landlord. At the other end of the scale you get the type with which we are all familiar; where the tenant occupies practically a feudal position *vis-à-vis* his landlord. Between the two there is an almost infinite gradation. It is true to say the main body of tenants are socially very much the same as the main body of peasant farmers. They come, generally speaking, from the same tribes. They occupy a certain inferior position because they do not own land, but socially (speaking as an outside observer) they seem at any rate very nearly indistinguishable. What is more important for this purpose is that the result of the process of fragmentation in this province has been to bring about the position that very many landlords who do not possess enough land for their own subsistence are also tenants. That is true to a very large extent, particularly in the central Punjab.

141. Do you agree that in the last two councils the peasant proprietors and small tenants have been swamped by the big landowners in all the rural constituencies, and have not secured the return of their people?—As far as my recollection goes, there are actually no small peasants in the council, but whether the members represent them or not I should not like to say.

142. The small people have not been able to get into the council themselves?—I can think of no member of the council whom I should describe as a peasant proprietor.

143. *Raja Narendra Nath*: The depressed classes and the agricultural labourers in rural areas have no vote, generally speaking, because they do not own property?—No. That is almost universally the case. Ordinarily the menial classes do not own land, and therefore they have no land revenue qualification.

144. Talking of the city proper of Lahore and of Amritsar, land is not assessed there to land revenue?—No.

145. On page 57\*, at the end of paragraph 2, you say "the distribution of the elected seats as between rural and urban interests is 55 to 16"?—Yes.

146. In paragraph 4 it is stated: "Of the elected members, about 50 out of the 71 belonged to tribes notified as agricultural"?—I have guarded myself by saying "about"; it is very difficult to make an accurate statement to that effect. I would ask the Conference to take that with every qualification that the word "about" may imply, because accurately to say whether or not a gentleman is a member of an agricultural tribe is impossible, because there are different lists of tribes in each district.

\* \* \* \* \*  
153. *Chaudhri Zafrullah Khan*: Has the commerce seat in the three councils which have been elected under the reformed constitution always been held by a European?—Yes.

154. And has the industry seat always been held by a Hindu?—Yes, I think so.

155. And has the university seat always been held by a Hindu?—Yes.

156. In all three councils?—Yes.

\* \* \* \* \*  
164. My point is that if tenants in rural areas are enfranchised, there is likely to be a much larger number of the inferior classes on the electoral roll than at present?—I am not prepared to say that. I do not think in the Punjab as a whole a very large proportion of the land held in tenancy is held by people of a distinctly inferior status. It is very hard to say. We have got practically no information, but my impression is that most of the tenants are people of very much the same class and tribes as the peasant proprietors.

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[Continued.]

171. Do you not think that it may be taken for granted that under the present constitution an overwhelming majority of members consists of notified agricultural tribes?—Yes, probably about 50.

172. 50 out of 71 elected members?—Yes.

173. With respect to the working of the party system in the council, is it not a fact that these zamindars are for all practical purposes Muslims?—The rural party contained a section of Hindu zamindars in greater or less numbers.

174. You say on page 59\*: "But on the other hand on many subjects 'rural' has come to be 'broadly interpreted as connoting Muslim and 'urban' as connoting Hindu interests"?—Yes, I think the head of the rural party himself would admit that most of his followers were Muhammadans.

\* \* \* \* \*

180. *Dr. Narang*: You know that in the villages very few people have got lands which are worth anything like Rs. 4,000?—Yes, that is so.

181. And you also know that in the villages there are a large number of people who would like to be voters but are prevented by legislation from qualifying themselves as voters? I refer you to two particular things. Under the Land Alienation Act no person who is not a member of a notified agricultural tribe can acquire land in order to qualify himself as a voter and thereby he is deprived of suffrage altogether; is not that correct?—He cannot qualify himself for the land revenue suffrage.

*The Chairman*: I do not know whether people in this country really buy land for the purpose of voting.

182. *Dr. Narang*: This avenue is closed, is it not?—It is true to say that a person who is not a member of an agricultural tribe cannot qualify for voting by means of purchasing land.

183. *Chaudhri Zafrullah Khan*: Except when he buys from a member of a non-agricultural tribe?—Yes.

184. *Dr. Narang*: There is also another bar in the way of exercising the franchise. You know there are numerous people who cannot even be house-owners in the villages?—Yes.

*The Chairman*: I would just like to follow that.

*Dr. Narang*: Under the relics of some ancient feudal system the village landlord has certain privileges. He is supposed to be the owner of the whole land in the village whether it is under a building or under cultivation and a person who is not a landholder or proprietor in the village has no right to the site. He lives in the village on sufferance. He may be allowed to build a small house, but if that house falls down he may be prevented by the landlord from building another and he is not allowed to sell the site.

185. *The Chairman*: When you say that they cannot own land do you mean that they have not got the money to buy it?

*Dr. Narang*: Even if they have got the money the landlord may not be prepared to sell the land to him and even under the *abadi* he has no means to acquire land.

186. *The Chairman*: Though that may be a very important social factor, it appears to me that the owner of land cannot be compelled to sell it to somebody merely because he has the money to buy?

*Dr. Narang*: I did not mean that. My submission is that under this land tenure a section of the population is always treated as having no right as such to acquire land.

187. *The Chairman*: You mean that the social and economic conditions in the ordinary Punjab village are often such that if the power of voting so far as it is associated with the ownership of land is left as it is now, there are considerable classes of persons who are living in the village who could not acquire that qualification?

*Dr. Narang*: Yes.

188. With reference to urban areas, is it a fact that certain towns which are treated as notified

areas and have got local self-governing bodies and also small towns which come under the Small Towns Act which have also got the system of local self-government are not treated as a part of the urban area but are included in the rural areas?—If the population is below 10,000.

189. *The Chairman*: I think I have brought out that point. I asked the question whether for this purpose, the constituencies were not divided into urban and rural by treating as towns areas with a population of 10,000 and over. It follows that the smaller towns come under rural areas.

*Dr. Narang*: It is not a question merely of population. There is local self-government of four kinds in this province. One is under the district boards, i.e. the body which governs the whole district in certain matters; the second is that which prevails in towns with a population of over 10,000; then there is another class the towns of which are notified, known as notified areas; then comes the class which is notified as small towns. They are recognised units of towns, but for the purpose of election they are treated as rural areas.

*The Witness*: May I draw your attention to page 15 of the memorandum: "Although this 'line of division excluded some towns with a population of less than 10,000 which nevertheless 'possessed distinctly urban characteristics, it was 'finally adopted as being the most convenient and 'practical."

\* \* \* \* \*

201. *Rai Sahib Chaudhri Chhotu Ram*: Among rural Hindu constituencies you will find that two occupy very large areas. No. 20 (Multan) occupies a whole division?—Yes.

202. And No. 19 (Rawalpindi division and Lahore division north) covers more than one division?—Yes.

203. *The Chairman*: It is very important. For example, how many districts are there in the Multan division?—Five or six.

*The Chairman*: You say that all these districts are grouped together and they form a boundary, so to say, of the constituency and your suggestion is that it is very big. I follow that.

204. *Rai Sahib Chaudhri Chhotu Ram*: Among Sikhs, 11 are rural members?—Yes.

205. In all matters relating to economic interests or agricultural interests they vote with Hindu and Muhammadan rural men in the council generally?—I am afraid I have not been able to detect it; probably they do.

*The Chairman*: As a matter of fact there is a statement of this sort relating to the second council at the bottom of page 59\*: "On most communal subjects the Sikhs ranged themselves on the side of the Hindus, as is natural, though their interests were not always identical, as, for example, in the matter of gurdwara reform."

*Dr. Narang*: You may also kindly read about twelve lines from the top of that very page: "most of the rural members and a few Sikhs usually voted with the Muhammadan rural members..."

*The Chairman*: Thanks. That again refers to the second council.

\* \* \* \* \*

217. *Sardar Ujjal Singh*: The voting strength of the Sikh community is mostly due to their economic position, because payment of land revenue is a qualification? And also to the large number of retired soldiers and pensioners?—After you have taken the number of landowners paying Rs. 25 in the rural constituencies—you find that they are 350,000—that leaves 271,000 voters to be accounted for, who I think must be very largely retired soldiers. The Sikhs represent 27 per cent. of the voters in rural constituencies and they represent 30 per cent. of the landowners paying Rs. 25. The deduction, so far as I can see, is that they gain to a certain extent at the expense of other communities, possibly through the military vote.



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[Continued.]

218. That is what I mean to say. There is a larger number of retired soldiers in the Sikh community and the Sikhs pay a larger amount of land revenue. Is it also correct to say that the Sikh urban constituencies comprise all the towns in the province?—Yes.

219. On page 59\* the Government say that "On most communal subjects the Sikhs ranged themselves on the side of the Hindus, as is natural," etc. Would you just quote some instances of specific communal questions brought in the council?—I cannot give you off-hand. Which council do you refer to? The second?

220. Generally.—I do not think I can go off-hand into the history.

221. But would you agree with me that Sikhs, like the Muhammadans, are a rural and agricultural community and generally their economic interests coincide with those of the Muhammadans rather than with those of the Hindus?—Yes, the Sikhs are even more an agricultural community. The Muhammadans have got very large industrial interests, which are almost entirely lacking in the Sikhs.

222. Mr. Owen Roberts: One point I wish to clear up is about this remark on page 57. There the discussion is about the last three seats. These last three seats have in practice been held by two Hindus and one European?—Yes.

223. You know that the commerce constituency consists of the Punjab Chamber of Commerce and the Punjab Trades Association?—Yes.

224. The Punjab Trades Association is entirely a European body?—Is it by constitution? I take it from you.

225. The Punjab Chamber of Commerce is a mixed body?—Yes.

226. Are you aware that a cable was actually sent to the Secretary of State when the Government of India Act was being drawn up recommending that separate representation should be given to the Punjab Chamber of Commerce?—I do not remember.

227. My point is that if that had taken place—I will not say it is impossible—but it is improbable that the seat would have been held by a European?—I have no knowledge.

228. Government went to the extent of cabling the Secretary of State on the subject. \* \* \*

\* \* \* \* \*

231. Captain Sikandar Hayat Khan: With regard to paragraph 7 on page 12\* (volume I, Punjab Government memorandum), I gather from this that even if the franchise was lowered there would practically be no difference whatsoever between the number of voters for the legislative council?

The Chairman: It is a question of proportion, is it not?

232. Captain Sikandar Hayat Khan: They have reduced it to Rs. 15 land revenue in the case of the district boards, but still I find the number is practically the same as it was before.

The Witness: I can give you better figures than that if you want them, because I have got the number of landowners of each category.

233. The Chairman: Your point, Captain Hayat Khan, is that as you read paragraph 7 on page 13 you note that the number of electors in the district boards is 543,000 and the number of male voters for the rural general constituencies for the legislative council is 552,000, which is practically the same. Then you observe that the qualification to be an elector for the district board is lower than the qualification for the legislative council. So you suggest that the inference seems to be that if you lower the franchise for the council to the level of that for the district boards there would not be more voters. (To witness). How is that?—I think not, because a very large proportion of our present rural voters must have the military qualification. Since this memorandum was written I have got figures which show that landowners and

Crown tenants paying Rs. 25 and upwards are 350,000 out of 571,000 rural voters.

234. The Chairman: This is rather an important point. I am glad you asked this question, Captain Hayat Khan. Have you (to the witness) got any paper with this on?—Yes. (The paper was handed over to the Chairman).

235. The Chairman: This is a "comparative statement of voters in rural constituencies and landowners." What is the meaning of "and landowners"?—It is a comparative statement of rural voters as compared with landowners.

236. You mean, because you know how many landowners there are?—I have just found it out.

237. As you know how many landowners there are, you want to see how many voters there are?—I compare them with voters.

238. In rural constituencies you put down Muhammadans as numbering 256. What does that mean?—Thousands.

239. It means 256,000?—Yes.

240. And you give the percentage as 46. Percentage of what?—Percentage of the total number of voters.

241. Sikhs—158,000, making 27 per cent. and others—157,000, making 27 per cent. (exactly the same). Apparently there are 256,000 Muhammadan voters in rural constituencies and there are 672,000 landowners and Crown tenants who are Muhammadans?—That is the total. Yes, paying Rs. 5 and upwards.

242. As regards the Sikhs, there are 158,000 Sikh voters in rural constituencies and there are 354,000 Sikh landowners and Crown tenants paying Rs. 5. As regards "Others" we are shown 157,000 such voters in rural constituencies, and there are 372,000 landowners and Crown tenants paying Rs. 5. Is that the point?—Yes.

243. Sir Hari Singh Gour: What will be the capital value of the occupancy holdings paying a rent of Rs. 25? Can you give me an idea?—If you take it as land I think we may take 200 times the land revenue. The occupancy holding depends very much on the nature of the rent reserved. In very many occupancy tenancies the rent is merely the land revenue. It is practically a feu and therefore you may say 200 times the land revenue. Then you come down to occupancy tenants paying rack rent. That will be very much less.

244. Supposing a person living in an urban area with an income of Rs. 1,000 is enfranchised, what additional increase would it make to the voting strength of the urban population?—It does not make any, because it will be entirely marked by the Rs. 96 tenancy. I cannot imagine that a person with an income of a thousand rupees is not paying Rs. 8 monthly as house rent. But the actual number of extra income-tax payers to be added I could not say off-hand. At present the income-tax qualification is not effective.

245. Supposing we were to enfranchise and include in urban constituencies towns up to 5,000 population, instead of 10,000 which we have got, would that make any appreciable difference in the urban voting?—Considerable. I could not from memory tell you how many off-hand, but there are a large number of towns with urban characteristics with a population of 5,000 and upwards.

246. Rao Bahadur Rajah: As regards the depressed classes I see your Punjab Government seems to be a little confused. I will confine myself to the untouchable classes which I find at the bottom of page 7\*. Am I right when I say that the total strength of the untouchable classes is 2,268,000 out of a Hindu population of 8,773,000?—That was what was calculated in the census of 1911.

247. And so it must be more in 1921?—Not necessarily, because social customs are changing.

248. When social customs change, do they become

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[Continued.]

touchables?—You see here how it has been defined for the census purposes: "untouchability was merely held to mean that food touched by them could not be eaten by high caste Hindus."

249. *Rao Bahadur Rajah*: The definition, sir, that we arrived at in Bombay is "access to Hindu temples." Is that so, sir?

*The Chairman*: I think you are quite right. We tried to arrive at a figure for Bombay and we were greatly helped by you and by Dr. Ambedkar, and we wanted to find out what was the total in Bombay if you make this test, viz. people who for some purpose were regarded within the Hindu community but who had not access to the interior of a Hindu temple. We then came to the conclusion that there were about 2½ millions of that class in the Bombay Presidency.

*Rao Bahadur Rajah*: That is the same test applied in the Punjab at the top of page 8\*.

*The Chairman*: It is stated here that "minor temples were not closed to them; and in other respects there was a great variation in the degree of liberty given in social intercourse." That is frankly my own impression, Mr. Rajah. We must spend a little time in trying to understand what is meant by this expression, "untouchable" in the Punjab. On

the other hand it seems to me pretty clear that the full extent of the hardship which is suffered undoubtedly by untouchables in some parts of India is perhaps not well illustrated in the Punjab. Is that not fair?

*Rao Bahadur Rajah*: My point is this. I want to bring home to the minds of the British Commission that although we form 2,268,000 of the total Hindu population here, we are unrepresented in the local council.

*The Chairman*: I entirely appreciate your point.

250. *Dr. Narang*: May I put one question to the witness with the permission of the Chairman? Is it a fact, Mr. Miles Irving, that a resolution was brought in the Punjab legislative council by a Hindu member to the effect that wells and public schools and such other public institutions should all be thrown open to the members of the depressed classes and that it was defeated by members of the Government and the Muslim votes?—I have got only a dim recollection of it.

*The Chairman*: If I may say so, I do not think that answer establishes the fact. It is a suggestion made in a leading form in a question. It might or might not be a fact, but I do not think that we can investigate that subject now.

\* \* \* \* \*

### Afternoon.

(SIR ZULFIQAR ALI KHAN WAS PRESENT AT THE AFTERNOON SESSION.)

### Mr. MILES IRVING, C.I.E., O.B.E., I.C.S., Additional Secretary to the Government of the Punjab, Reforms

*The Chairman*: I might perhaps just say that the resolution on the subject of untouchable classes and the use of public wells which was referred to this morning by one of our colleagues is a resolution moved in March, 1925, in the legislative council by Mr. Mohanlal Bhatnagar, a Hindu member.

\* \* \* \* \*

1. *Raja Narendra Nath*: \* \* \* Mr. Irving, you say that tenants generally belong to agricultural classes?—Yes.

2. They are generally illiterate?—Yes.

3. The tenants at will are generally under the thumb and control of the landlords?—I should not say that. In the present shortage of tenants the tenant is rather the master of the economic situation in some parts.

4. Generally speaking, what is the position in the province as a whole?—It is a very difficult statement to make. It differs certainly in the colonies where the tenant can do what he likes. There is competition for tenants.

5. The enfranchisement of tenants will lead to their representation by landlords?—Probably yes. It is very likely to lead to that result.

6. Therefore that statement on page 20\* that "this differentiation would to some degree be relaxed if tenants of agricultural land were enfranchised," has to be taken with a pinch of salt, a very big pinch?—The differentiation arising from birth would to a certain extent be relaxed. It will be relaxed to the extent to which the tenants are not members of the agricultural tribes.

7. Not materially. It will not make much material difference, is that right?—If the tenants are largely members of agricultural tribes, you are right. But it is a point on which we have got very imperfect information and it is quite possible that the tenant body in a certain district although notified as agricultural tribes in other districts is not notified as such in that district.

8. *The Chairman*: Tell me, does the Land Alienation Act prevent anybody from being a tenant?—No.

9. That is the point. I do not know how far it works in practice, but I understand the point of this paragraph is that if there was a vote more widely spread many of the tenants and occupiers may exercise it. The tenants and occupiers as far as the law is concerned, might belong to a non-agricultural tribe?—Yes.

*Raja Narendra Nath*: But they do not as a rule belong.

10. *The Chairman*: The proposition is a perfectly simple one. It is that the Land Alienation Act does not intend to put restrictions upon the class of tenants and therefore if certain persons were tenants and the vote was extended to tenants that would *pro tanto* relax the severity of the present position. It still remains, I dare say, as I gather you imply, that that would not be a very extensive practical relief; that is your point, Raja Sahib?

*Raja Narendra Nath*: Yes.

11. *Sir Hari Singh Gour*: What percentage of the urban and what percentage of the rural voters in the Punjab are literate?—I am speaking from memory. I should say 28 per cent. is roughly true for urban and 9 per cent. for rural, but I should like to verify that.\*

12. *Sir Zulfiqar Ali Khan*: In the statement you submitted to the Chairman you gave the figures of the voting strength of the different communities in the Punjab, Mussalmans, 256,000, Sikhs, 356,000, and others, 157,000. Now I should like to know the disparity between the Muslim voters and the non-Muslim voters?—That can be calculated. 256,000 against 315,000; that is, it comes to 59,000.

13. This is the difference between the Muslim and non-Muslim voters?—Yes.

14. You are aware, Mr. Miles Irving, that in the Punjab, according to Mr. Darling's estimate the Muslim agricultural classes are indebted to the tune

\* NOTE.—The witness subsequently gave the percentage for literacy among adult males as 9·4 for the whole province, and 16·5 for a few selected towns.

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of something like sixty crores?—I have forgotten the figure that he has mentioned in his book.

15. Do you think that this indebtedness of the Muslim agricultural classes constitutes a handicap with regard to the free use of their voting power?—I think Nawab Muzaffar Khan will be in a better position to answer that. I have no personal experience of elections. I think you have in your mind that the creditor uses undue influence on the debtor and makes him vote in a particular way. I have really no experience on the matter, and I think you will find in the part dealing with corrupt practices in the memorandum that that particular point has never been made a ground for unseating a member on petition.

*The Chairman:* As a practical matter, one cannot help saying that in a greater or less degree something of this sort might happen. I do not suppose that a Government witness can tell us what the degree is. I understand that Sir Zulfiqar's suggestion put through the question is that if there is this large financial hold of the mortgagee over the mortgagor, cases may arise where this will have an undue influence upon the debtor's voting. I think that is a suggestion we all have to bear in mind.

\* \* \* \* \*

20. You are aware that there is a large number of non-Muslim graduates of the Punjab University?—I am aware of that.

21. Do you think that under those circumstances a Muslim, if he dared to stand as a candidate, would have even a ghost of a chance?—As things are at present, I suppose Hindus are more likely to be elected.

22. Do you think that any Muslim has a chance of success in the Punjab Chamber of Commerce constituency?—There again I do not know what are the political movements within that Chamber. All I can say is that so far no Muslim has been elected.

23. Do you know the strength of that Chamber?—I have not got the figure separately for the chamber; but the Chamber of Commerce and trades together have got 96 voters.

24. You cannot say how many of these are Muhammadans?

*Captain Sikandar Hayat Khan:* It is in the statement, Sir Zulfiqar. In the university constituency there are 2,231 non-Muhammadans, 614 Muhammadans and 666 Sikhs; and in the Chamber of Commerce there are 87 non-Muhammadans, 1 Muhammadan and 6 Sikhs.

25. *Sir Zulfiqar Ali Khan:* So practically, the Muhammadans and Sikhs have no chance?—Not so long as voting runs on communal lines.

26. Could you say from memory whether any Muslim member in the legislative council has moved any vote of censure against a non-Muslim minister?—I am afraid I could not say.

27. He has not?—I could not say from memory whether any vote of censure has been brought by a Muhammadan member against a non-Muslim minister.

28. *The Chairman:* I gather, Sir Zulfiqar, that your impression is that there has not been such a case.

*Sir Zulfiqar Ali Khan:* Yes.

*The Chairman:* We will take it to be so unless somebody corrects it.

29. *Sir Zulfiqar Ali Khan:* Do you know that one of the non-Muslim ministers—I will not name him—depends entirely on the Muhammadan support?—I am not prepared to say so. You must remember that there are many combinations of parties which result in a division list.

30. Would you please tell me if the system of separate electorate has operated adversely in the formation of joint parties in the legislative council here?—I do not think it is very easy to form a definite opinion. There has been a certain movement towards the formation of a joint party which is described as the Punjab National Unionist Party (see page 61\*) representing many organised rural interests. That party, at the time of writing this report, was led by a non-Muslim member. But whether that party would have been stronger if there had been no communal electorates I cannot say.

31. Under these circumstances do you think that when there has been no vote of censure moved by a Muhammadan member against a non-Muhammadan minister and also when the system of separate representation has not operated adversely against the formation of joint parties in the council, there is any justification for fear that the Muhammadan majority or the Muhammadan government in the province would injure the interests of non-Muhammadan ministers?—Of course, I do not entirely accept the first two clauses of the question, and I am inclined to think that the third does not arise. I would not like to prophesy what would be the action taken by a Muhammadan majority in case it existed. Your point is that there is no fear that the majority would tyrannise over the minority.

\* \* \* \* \*

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37. *The Chairman:* You are Mr. John Godfrey Beazley? \* \* \* Are you the Secretary in charge of the transferred departments?—Not all of them. I am in charge of local self-government, medical, public health and registration.

\* \* \* \* \*

41. *Mr. Cadogan:* \* \* \* The first question which I want to put to Mr. Beazley is in regard to district boards. I understand from page 142\* (of Volume I of the Punjab Government memorandum) that there is no communal representation on district boards although there is some system of adjustment so as to secure fairly equitable representation for the various communities?—That is a fact.

42. By devising electoral circles? I am not quite sure what that means.—An electoral circle usually consists of one or more *zails*, possibly two or more.

43. A *zail* is a subdivision of a *tahsil*?—A *zail* is a collection of twenty or thirty villages under a sort of non-official official, a rural notable. The electoral circles usually consist of anything from one to four

*zails*, and the grouping of *zails* does give some scope for taking into consideration the representation of communities. For instance, if there were one predominantly Muhammadan *zail* and one predominantly Sikh *zail* with a fairly large population in both, we would not group them together so that the Sikh *zail* having a slightly larger population would swamp the Mussalmans. We attempt to combine a Muslim *zail* with an adjacent *zail* in which the community is more or less equal, and a Sikh *zail* with another *zail* in similar circumstances so as to get out of the four *zails* two circles, one giving a Mussalman member and one a Sikh member.

44. That obviates any demand for communal representation? Is it a satisfactory system from that point of view?—There has been a slight demand, not pushed to any great extent, for communal representation in district boards.

45. The second feature which strikes one about the district boards is that the deputy commissioner is chairman of every district board except two, I think?—Yes.

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[Continued.]

46. I understand formerly of course the deputy commissioner was the ex-officio chairman?—Yes.

47. But since 1925 (I find on page 151\*) "if any board of which three-quarters of the members were elected at a meeting specially called for the purpose" and presided over by a non-official, resolved by a majority of sixty per cent. of the non-official members present to request Government to be allowed to elect a non-official chairman," the deputy commissioner would stand out? That is the present situation, is it not?—The position so far as the law is concerned remains unaltered. But Government in 1925 made an offer that if there is sufficient demand under these conditions for a non-official chairman Government will remove the deputy commissioner from chairmanship altogether and direct that in future the chairman should be elected.

48. *Mr. Cadogan*: I think that was the substance of what I said. In spite of that fact I understand from the Government memorandum that there are only two district boards of that sort?—Yes.

49. Might I ask you which they are?—Gujranwala and Gujrat.

50. On page 151\* (Volume I of the Punjab Government memorandum) it is stated that "only two district boards have however availed themselves of this offer up to the present, and deputy commissioners have recently been instructed again to elicit the opinion of boards on this question." With what result?—With the result that every board has said that it does not want a non-official chairman.

51. *The Chairman*: They want to keep the present system?—Yes.

52. *Mr. Cadogan*: So much for the district boards. Now, on the question of municipalities. I think it is on page 150\*. In about 40 municipalities I think the president is an official. Is that not so?—Yes, the position when the memorandum was drafted was that there were 41 municipal committees over which officials were presidents, either elected or appointed official presidents. Three are definitely appointed by Government.

53. Does that mean that the deputy commissioner is elected by the choice of the members of the municipal committee to be their Chairman?—Yes, sir. As a matter of fact the number of deputy commissioners who remained as presidents was very small—I think in seven districts, and it has now been reduced to three.

54. I suppose in municipalities you have a wider choice of competent non-official chairmen than in district boards. Is that the case or not?—Yes, because the number of members of district boards living at headquarters is small and they must choose a man who lives at headquarters. Practically the choice is very limited indeed.

55. The choice is limited in the districts?—Yes, in the district boards.

56. That accounts for the difference?—I think it probably is that the less sophisticated rural population prefers an official chairman and that the more sophisticated urban population prefers to try to run their own affairs.

57. There is one question I should like to put to you, rather a general question. This is rather a stern indictment of the condition of the finances. You will find the reference at the top of page 157\*: "For even with the control now exercised the finances of a large number of local bodies are in a deplorable condition" and so on. Is there any indication of there being any improvement, or could it be improved?—It can only be improved by local bodies agreeing to put on increased taxation which they show no sign of any readiness to do at present.

58. It is really taking us up to the question of the extent of the control which Government exercise. Can you state in broad general terms how such control has been exercised and with what effect?—In what respects?

59. In regard to the control over taxation, control over accounts, control over adults, etc.?—Control over taxation is only exercised with the object of preventing unfair or extravagant taxation.

60. *The Chairman*: Will you please just explain?

\* \* \* I think what we would like to know from you in your own words is whether under the present system of local self-government in the Punjab there is an effective system by which the central authority in case of need exercises control and prevents irregularities in the local administration, in municipalities and district boards. I would like to hear from you in three or four sentences as to how that stands. First of all, what is the system, secondly do you regard it as an effective machinery?—The system is effective where it is worked by a deputy commissioner who really takes an interest in local self-government matters. If he keeps a close eye on the proceedings of the committees and by fairly constant inspections keeps himself acquainted with what is going on, then the control is effective and valuable. It takes the form more of his giving advice to the committee concerned than of his exercising statutory powers to compel the committee to take any particular action. But if the deputy commissioner has no particular interest in local self-government, then the provincial Government really is entirely in the dark as to what is going on and has no opportunity of enforcing control.

61. I imagine that in a province like this when the chairman of the district board is the deputy commissioner, there exists official machinery from the deputy commissioner to the commissioner and from the commissioner to the headquarters and back again which does create as it were a channel of control?—In respect of the district boards there is very little necessity for control from without owing to the deputy commissioner himself being the chairman, and even in the two districts where he is not the chairman, he is in close touch with the non-official chairman, and it amounts to the same thing.

62. And is it your view that in the local Government where the deputy commissioner is not chairman there is a need for effective control and supervision from the centre?—Certainly.

63. Do you consider that in the present circumstances that necessary control is in practice available and working?—As I say, it is available where the officers are interested in the matter.

64. As you said, if the deputy commissioner is interested, the only circumstance in which he could interfere with, say, a municipality or some local body in which he is not the chairman, would be I imagine because he is the head of the administration in the district and takes, or ought to take, some sort of interest in the affairs going on in it?—He has definite statutory powers under the Act. Every committee is bound to supply the deputy commissioner within three days with a copy of the proceedings of each meeting. If he is interested, he looks into these things with a view to exercising his power of vetoing any resolution which is likely to create a breach of the public peace, or cause hindrance or annoyance to any class of inhabitants.

65. Is that all? Is it only in matters relating to a breach of the peace or causing hindrance or annoyance to the public in which he is interested?—He is also bound to require that the proceedings of every committee should be in conformity with law and the rules and bye-laws made under it. So that he has power, and it is sometimes exercised, of interfering even in such matters of detail as the disposal of building applications.

66. *Lord Burnham*: I do not quite understand the meaning of the word "interested." It is a rule regulating the services that the deputy commissioner should take an interest in such work, and not an exception?—I should say that officers differ very greatly in that matter. Some do not take any interest and some do take a very keen interest.

67. *Lord Strathcona*: I should like to put one question about village panchayats. It is dealt with



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at pages 160-161.\* Would you say that the system of village panchayats has been working successfully in this province, and also are they meeting with a certain amount of popular approval?—We cannot say yet that it is working successfully, because they have hardly begun to work at all.

68. You say it is working in 525 villages. That seems to be a good number?—The figure is now 418, comprising 623 revenue villages.

69. You say that they have been working successfully?—There are signs; where they get a good man they are doing really good work and are appreciated; and since we appointed these special panchayat officers, the movement does seem to have got a definite stimulus.

*Raja Narendra Nath*: I will have to refer to one other document which has been received by me from the Commission and which I wish to bring to the notice of the witness. I want to know whether the principle laid down there was borne in mind when the changes were introduced.

*The Chairman*: Would you tell me what that document is?

70. *Raja Narendra Nath*: The document is the one which deals with communal representation in legislatures and local bodies. I want the witness to read this passage. I have marked it N.B.† (The witness was given the book for reference.) When the number of Moslem seats was increased, was attention paid to this principle which is laid down for councils that separate electorates should not be allowed to Muhammadans where the majority of the voters are Muhammadans?—To what occasion do you refer?

71. When those changes were made which are described on page 141?† There are several municipal committees in which the number of Moslem seats has been increased in which the number of Moslem voters are also in the majority. This point probably was not considered?—Not to my knowledge.

72. *The Chairman*: I gather that what you are referring to is the note published in August, 1923. Mr. Beazley, were you in the department in August, 1923?—No.

73. Had you anything at all to do with that note? The note was one drawn up by the Government of the Punjab during the time of Sir Edward Maclagan. Had you anything to do with it?—No.

*Raja Narendra Nath*: I will then put the question in another way.

*The Chairman*: Surely what you refer to in pages 133 and 141† is in consequence of a note published in August, 1923, by the Government of the Punjab in the time of Sir Edward Maclagan.

74. *Raja Narendra Nath*: Yes, I know, but the witness knows the effect of it and it is to that I am drawing his attention. There are municipalities in the province in which the number of Muhammadan voters is in the majority, in which the Muhammadan population is in the majority and in which the Muhammadan representatives in the municipal committees are also in the majority?—Certainly, and probably in those places the communal system was introduced at the desire of the non-Moslem committees.

75. Could you mention those cases in which the Moslem majority exists?—I cannot say off-hand and I cannot say at whose request communal electorates were introduced in places in 1923.

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*Raja Narendra Nath*: \* \* \* The principle laid down is that separate electorates are not to be allowed in places where the majority of voters are Muhammadans. In the Punjab separate electorates had been in existence, and although there was a majority of Muhammadan voters in several

municipalities, the number of Moslem representatives was increased. I am referring to that increase.

*The Witness*: I should like to say with reference to the Raja Sahib's question that if he will examine the Table on page 147\* of the Punjab Government memorandum, he will see that since the Reforms communal representation has been introduced in twelve municipalities in only three of which is there a Moslem majority.

\* \* \* \* \*

77. *Dr. Narang*: What has been the effect of the changes brought about in the local self-government so far as the municipalities are concerned since the Reforms, since the portfolio of local self-government was entrusted to the minister, the first minister being Sir Fazl-i-Husain?—Changes in what respects?

78. Changes in the representation of various communities?—The result is given at page 141 of the memorandum.\*

79. There is no communal representation in the district boards?—None.

80. Is it a fact that in the district boards the number of the Moslem members is very much larger than the non-Moslem members, taking the province as a whole?—I could not say off-hand.

*Dr. Narang*: I want to know if the figures given in this document named "Constitution, etc., of local bodies in the Punjab" published by the Punjab Government when totalled give the correct answer to my question.

81. *The Chairman*: Do you know whether it is a document that comes officially from any department?—It has not been presented to the Commission officially. It was compiled in the Secretariat in the Local Self-Government department at the beginning of 1928.

81A. It is not a confidential document?—No. (The mark "G.C.N." was given to the document.)

82. *Dr. Narang*: There is a table given at page 10 of this document (G.C.N.I) where the number of representatives of each community in the district boards is given. Unfortunately the totals are not given. I just want to know whether these figures are correct and the totals if added would supply an answer to my last question?—The figures were correct at the time when the document was compiled, and the answer can certainly be obtained if you will add up the columns.

83. I should like to know if there has been a change in these figures. This table shows that in four district boards the Hindu community is not at all represented; is that correct?—If those are the figures in the Table, it is a fact.

84. Can you tell me the reasons why communal representation was not introduced in the district boards, while it was introduced in the municipalities?—As I have explained in the memorandum, the extension of communal electorates in municipalities is really due to the introduction of the small ward system. In district board areas the conditions are quite different and the question of introducing communal electorates in them never arose at all.

85. Who raised the question of introducing communal electorates in municipalities? Is this impression which has gained ground among the Hindus that communal electorates were introduced in the municipalities because that was calculated to benefit the Muhammadans correct, because as a matter of fact we find that eighteen municipalities have a preponderance of Muhammadans while only five municipalities have a majority of Hindus, that is as a result of the changes introduced by the first minister, Sir Fazl-i-Husain?—The changes made by the first minister did not include the introduction of communal electorates.

86. Let us say after the introduction of the Reform scheme and the impression is that the principle of separate electorates was not introduced in district boards because there was an overwhelming majority

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of Muhammadans there already?—The question of introducing communal electorates in the district boards was never raised by anybody.

87. Why did not the minister introduce it? I want to know the reasons why he did not introduce it?—I cannot possibly tell you.

88. I thought that you being in charge of the transferred departments might know the reasons. But I ask you whether the impression I have referred to is well founded or ill founded?—The impression that the first Muslim minister introduced communal electorates in the municipalities for the purpose of increasing the representation of Muslims is entirely incorrect.

89. How do you know that, when you do not know the reasons why it was done?—I said that I did not know the reasons why he did not take up the question of introducing communal electorates in the district boards. When a thing has not been taken up, there is nothing about it and one cannot say anything.

90. One is an act of commission and another an act of omission. An impression has been created in the minds of a certain section of the public that communal electorates are introduced in one department of local self-government because that would benefit a certain community and that principle has not been followed in another branch of local self-government because the introduction of that principle would not benefit that community. I ask you if you can say whether there is any substance in that impression?—I have said it is entirely unfounded. As regards the introduction of communal representation in the municipalities, what happened after the Reforms was merely a continuance of what was already going on.

91. It was only accentuated?—It was a mere continuance. The proposals came up from the local officers, and the only change was that the minister dealt with them instead of the secretary and the Lieutenant-Governor.

92. In any case, the result was that the number of seats to the Muhammadan community was increased and the number of seats already held by the Hindus was decreased?—No. There was no decrease of membership anywhere.

93. I am talking of the proportion of seats of the two committees?—If the proportion of Muslims is increased, it necessarily follows that the proportion of Hindus is decreased.

94. Were there any protests made by the Hindu community against this course?—Very strong protests in the case of Lahore and Amritsar.

95. And the Lahore municipality was boycotted by the Hindus for several years?—Yes.

96. Also the Ambala municipality?—Not for such a long time.

97. There were similar protests in other districts?—Yes.

98. Is it a fact that in your department complaints have been made that appointments of candidates and dismissals of existing incumbents were made over the heads of departments?—I have heard of no such complaints.

99. Is it a fact or not?—I cannot answer for all the departments. With regard to the departments I deal with I have seen no such complaints.

100. Medical department?—No such complaints.

101. Is it not a fact that many of the assistant surgeons who had been in service for many years were discharged because room had to be made for Muslim assistant surgeons?—No.

102. I would like you to consider this point well.—So far as I know, not so. If you are referring to the arrangement made after the war, when many permanent men had to come back from the army and consequently we had to get rid of temporary men, then I cannot say to what extent the communal representation was affected by their discharge from service.

103. *Dr. Narang*: That is a very cautious answer?

—I have never heard the suggestion made before that the Doctor has now made. I have had complaints from individuals that they were better men than men retained, but I myself have found no reason for holding that they were better men.

\* \* \* \* \*

*Dr. Narang*: I have been just informed that it has been corrected.

105. *Sardar Ujjal Singh*: Is it not a fact that the Sikhs are in a minority in all the towns in the province?—Yes.

106. In how many municipalities are the Sikhs given separate representation?—Very few, I think; I cannot say off-hand how many.

107. The number is about seven. Is it not correct? That is a reply that was given to my council question.—If that information was given in reply to a question in the council, then the information was correct.

108. In how many municipalities are the Muslims given separate representation?—I cannot answer this also off-hand.

Fifty-two was the answer given, sir, in reply to one of the questions in the council.

*The Chairman*: Thanks; you can take that answer to be correct, subject, of course, to its being corrected hereafter.

109. *Sardar Ujjal Singh*: Is it also a fact that there are sixty-four municipalities in which the Sikhs are not at all represented either by nomination or by election?—There is a considerable number, but what that exact number is I cannot say.

110. You said that there are only two district boards in which there are non-official chairmen. Can you tell us how they have discharged their responsibility as chairmen?—In the reports received in the first two years of their incumbency, to the best of my recollection, it was reported that their work has been carried on perfectly smoothly and practically as before. But in the reports recently submitted on the working of the district boards, I have noticed that the administration of one of these two boards (I shall not name it publicly) has been very adversely commented upon.

111. Is it due to this cause or to some other cause?—I do not know whether it is due to their having a non-official chairman or to some other cause.

112. You said that Government had authorised district boards to elect their non-official chairmen if they wanted. How many district boards were authorised?—I never said that they were authorised to elect.

113. They were asked?—Government made an offer that on certain conditions they would remove the deputy commissioner from membership and direct that for the future the chairman should be elected.

114. All district boards were asked?—Every one except those in which the elected members did not constitute 60 per cent. of the total number of members.

115. With a large elected element in the district boards, the district boards have not shirked their responsibility in the matter of raising taxes to meet the demand of local boards?—Every district board except one has raised the local rate to the maximum permissible by law, and nearly every district board has imposed taxation on the non-agricultural classes.

116. Government has pointed out in this memorandum that inefficiency in local bodies is due to the inefficiency of their staff. Is not the system of communal representation in the municipalities responsible for it?—Due to inefficiency of the staff?

117. Yes.—Not that I know of.

118. You do not know that inefficiency in the local bodies is due to the inefficiency of the staff, or you do not know whether it is due to communal representation?—I know that inefficiency is largely due to inefficiency of the staff, but whether the inefficiency of the staff is due to the fact that in

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some bodies there is communal representation, I do not know.

119. Thank you. Do you know whether in the district board elections the creditors have been exercising great influence or, say, any influence on the debtors, i.e. the agriculturists?—No such matters have come to my notice.

120. May I just refer to a few lines in the Government of India memorandum,\* where it has been pointed out that "there were municipalities which were free from these unfortunate influences" (meaning thereby communal influences) "which worked only for civic good, and in which the withdrawal of official control only had the effect of stimulating the interests of the non-officials." Will not interest be stimulated in the district boards also if official control is withdrawn?—It is a matter of opinion on which I do not feel that I can express an opinion, but so far as the ministry of the local self-government in the Punjab is concerned, it is their anxious desire that every effort should be made to induce the district board to assume this responsibility.

121. *The Chairman*: May I just make a small correction, because we want to be sure. You, Sardar Sahab, very naturally put to the witness what you saw on page 153† of the descriptive book. You were doing it from memory, and you were saying that the Government of the Punjab said that the inefficiency of local bodies was due to inefficiency of their staff. I will just read the actual sentence lest it might be supposed that too definite an assertion is made. It reads thus: "There have been constant complaints that the inefficiency of local bodies is due to the inefficiency of their staffs." It is right to add, if I have followed Mr. Beazley correctly, that he is rather disposed to think that want of efficiency of local bodies is connected with inefficiency of the staff. That is your view, is it not?—Yes, sir. I may also point out that in paragraph 49 on page 158† a definite admission is made by the Punjab Government.

122. *Rai Sahib Chaudhri Chhotu Ram*: Mr. Beazley, you said a few minutes ago that you made an offer to district boards to indicate their desire with regard to having or not having a non-official president, and that in the replies that you received you found that not a single board in the province, other than the two that you have already mentioned, has indicated any desire to have a non-official president. Do you know the circumstances under which the meetings were held at which this decision was arrived at not to do away with the official president?—I do not know the circumstances in which they were held. I know the circumstances in which they were directed to be held, and that was that they should be attended only by the non-official members.

123. But you cannot say whether those meetings were not actually presided over by the deputy commissioner?—I cannot say who actually presided; but the orders were that the meeting should be attended only by non-official members.

124. *The Chairman*: That was an order, was it not?—Yes.

125. It was communicated, I suppose, to the district boards?—It was sent to the deputy commissioner to be passed on to the district board.

126. Unless the deputy commissioners has suppressed the order, which I am sure nobody would suggest, the members of the district board knew the desire of the Government?—Yes.

127. Did you receive any complaint that in spite of the order the deputy commissioner nonetheless presided?—No.

128. *Rai Sahib Chaudhri Chhotu Ram*: In the case of one of the district boards presided over by a non-official president, you said the working of that district board has been this year adversely commented upon?—Yes.

129. Who has made this adverse comment? Is it the deputy commissioner?—No, not the deputy commissioner; it is the commissioner.

130. Did the commissioner receive a report as to the working of that district board from the deputy commissioner?—The report on the actual working of the district board is submitted by the chairman of the board. The deputy commissioner, of course, sees it.

131. Did the non-official chairman of the district board express any opinion of his own with regard to the working of the district board?—I cannot tell you. The report came in about a month ago. I have read the commissioner's forwarding report on the whole division, and noticed this point. I have not read the individual district reports; that would be done when the report comes up for review by Government.

132. I want to know definitely whether the chairman of the district board was ever consulted when this report was made?—This is a report containing the opinion of the commissioner on the working of the district boards of his division.

133. Was that report of the commissioner based on his personal knowledge, or on any report that he might have received from the deputy commissioner?—It was based partly on his personal knowledge, partly on the audit reports—very largely on his personal knowledge.

134. Are you sure that the deputy commissioner made no report about the working of the district boards?—No. I am not. I have not read the district reports. I read the commissioner's forwarding review.

135. The deputy commissioner is regarded more or less as a local Providence in this province as well as in other provinces. Do you not think his special position secures for him greater immunity from criticism than the ordinary president of the local board secures?—Certainly.

136. One of our friends here put to you a question as to the fairly large number of municipalities in which Sikhs were not represented at all. Now, there are many portions of this province where there is absolutely no Sikh population?—Quite.

137. You have been in charge of the Local Self-Government department for a pretty long time. Can you tell me whether papers that are received from districts or sent to districts get held up in the commissioner's offices for pretty long intervals?—I think there may be some cases which get delayed.

138. Have you ever felt that so far as local self-government matters were concerned, the link supplied by the commissioner may usefully be dispensed with in the interests of expedition and despatch of work?—That is a subject which is not covered by the Punjab memorandum.

139. *The Chairman*: No. I may tell you, though, that it was referred to in the course of Mr. Emerson's evidence yesterday, and I think if you could answer the question which has been put to you it would be helpful to us. I should like to know what your own view is. I understand that the question is whether you have been disposed from your experience to take the view that the link of the commissioner so far as regards the administration of local self-government is concerned is an unnecessary link?—I should say that there were many classes of cases in which he serves a very valuable purpose, though undoubtedly there are a great number of routine matters which might come direct from districts to the Local Self-Government department; but that would be merely a matter of arrangement of office work, surely, to free routine matters from any unnecessary stage. There are undoubtedly large numbers of cases connected with local self-government in which the commissioner's opinion and advice in forwarding or commenting on proposals are valuable.

140. *Rai Sahib Chaudhri Chhotu Ram*: With regard to the finances of the district board, the bulk

\* Vol. V., p. 1096-7.

† Vol. X.

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of district board finances is derived from the local rate, apart from the government grant?—Over 50 per cent. of district board income consists of government grant.

141. Yes; and the rest?—I should think about 70 per cent. of the balance is derived from local rates, possibly more.

142. Is it or is it not the fact that the present resources of district boards are practically fully committed to the maintenance of existing services?—Yes.

143. Do the non-landowning classes contribute anything towards the cost of district boards?—They pay school fees, presumably, if they send their children to school; and to the extent to which they are owners of land they pay local rates.

144. In the matter of imposing fresh taxes within their jurisdiction, the powers of district boards are strictly limited?—They cannot impose any taxes without the consent of Government.

145. Do the taxes cover a very wide range?—They are in the Scheduled Taxes Rules. There is a very considerable range.

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146. *Rai Sahib Chaudhri Chhotu Ram*: One of the taxes which was imposed by certain district boards in this province was declared illegal by Government?—Yes, only on account of it having been imposed without the sanction of the Governor-General; and I might explain, as the matter is referred to in paragraph 59 of the Punjab Government memorandum,\* that the Government of India have now intimated that they are prepared to sanction proposals for this *haisiyat* tax with slight modifications in accordance with the letter which is reproduced in Appendix C.

147. May I draw your attention to the fact that at least one district board has shown its readiness to impose a tax for improving local breeds of cattle?—Yes, but in order to carry through the proposals of this district board it would have been necessary to amend the District Boards Act.

148. *The Chairman*: Then they were not asking for the leave of Government, because that would be asking Government to give leave to do an illegal thing. They were really suggesting that the law should be amended?—Yes, and a Bill was actually drafted for the purpose. The position is that no minister could be found to introduce the necessary legislation.

149. *Rai Sahib Chaudhri Chhotu Ram*: Since the introduction of the Reforms you have insisted on getting a better type of man for your nominated members, and you have issued instructions?—Instructions have been issued. Whether the result is any better or not, I cannot say.

150. But so far as you are concerned, you have issued instructions?—The ministry has done its best to secure a better type of man.

151. In the case of registrars also you insist that a man of better education should be recommended by district officers?—I think all that has been said is that nobody who is an illiterate should be recommended.

152. There used to be some registrars who did not know the English figures?—Who could only just sign their names, and no more.

153. *Chaudhri Zafrullah Khan*: Your attention has been called to the fact that in many rural district boards there is no Hindu member. Can you inform the Conference whether it is a fact that in some of the districts, particularly in the north-west, the number of the Hindu electors in the district is almost negligible?—Yes, there are some districts of that description.

154. With regard to the local rate, I think the matter has been cleared up, but I think the impression might have been received that the local rate is

imposed only upon ownership of land.—The local rate is imposed on land only.

155. Because at one time you used to have taxes on non-agricultural land. At present this local rate is a tax on landowners alone?—That is so.

156. Has it happened in local bodies (and I am not confining my question to district boards alone) that non-Muhammadans have occasionally insisted upon having separate representation?—I certainly think that in some of the places where communal representation exists it was requested by non-Muslim bodies.

157. It was suggested to you by Dr. Narang that in some of the district boards the Muhammadans have got a larger number of seats than (I think it was) their population justified. Will you inform the Conference whether that is so in many cases with the Sikhs also?—It is stated clearly in paragraph 14 on page 142\* that Sikhs have secured 186 seats as against 141 to which they were entitled according to the formula of population and voting strength.

158. Do not you think that the non-Muhammadans—which practically means the Hindus under the present classification—might have had slightly better representation on the district boards if they had cared for it—that to a certain extent their lesser representation is due to their indifference to obtaining seats on the district boards as compared with the municipalities?—No, I do not think that is so.

159. In a considerable number of municipalities, is it not a fact that the number of Muslim commissioners does not nearly correspond to their population strength within the limits of those municipalities?—In places where there are not communal electorates?

160. Yes, in places where there are joint electorates?—There may be some cases. I doubt if there are very many.

161. In Rawalpindi I understand that there is at present a system of joint electorates, although an attempt has been made to arrange wards in such a manner that in certain wards Muhammadan electorates should preponderate. Is it the fact that in spite of that arrangement the number of Muslim members returned to that constituency does not correspond with their population?—I cannot possibly say. No elections have taken place since the new arrangements were made or rather proposed.

162. Is the arrangement proposed in consequence of the fact that it was felt that the Muhammadan population—The arrangement was made in consequence of certain allegations, which I am not sure have not now turned out to be entirely unfounded, because owing to the enormous number of bogus voters of all communities who were imported on to the electoral roll in Rawalpindi it is really impossible to say what the actual representation of the different communities ought to be.

163. Is it a fact that organised attempts are made when electoral rules with regard to municipalities are being prepared to regulate the representation of different communities to show their strength on the electoral roll as greater than it really is in order to obtain a longer measure of representation?—I have heard allegations of that sort made.

164. *Mr. Owen Roberts*: In section D, chapter VII, paragraph 10,\* you review the history of communal representation, and it would appear from that that the earliest reservation of seats for a minority that was ever made was made in 1886 for European and Eurasian householders. You say, "in 1886" (in Lahore) "traders and shopkeepers, Indian owners and occupiers of houses and European and Eurasian owners and occupiers of houses, all had seats specially reserved for them. Apart from this," it continues, "the earliest instance of communal representation is provided by Amritsar where in 1888 the elected seats were definitely divided" and so



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on. It was recognised as early as 1886 that special representation for Europeans and Eurasians was necessary. I have had a good deal of correspondence with the ministry of local self-government on the subject of seats taken away from Europeans both in Lahore and Amritsar. Am I correct in concluding from that correspondence that the position now is that as Europeans do not amount to 0.5 per cent. of the population of any town, they will receive no representation in future?—No. Are you referring to elected seats or appointed seats?

165. I am referring to appointed seats. It is not a question of living on the generosity of Government, but of our rights.—Lahore is the only place in the province, apart from the hill stations of I think, Dalhousie and Murree, where any seats at all are reserved for Europeans. The proposition laid down by Government as regards places where communal representation is granted is that ordinarily no consideration whatever should be paid to any community which, on the basis of its population and voting strength, is not entitled to at least 0.5 of a seat.

166. That does in practice exclude Europeans entirely?—That is the general principle; it is not adhered to in Lahore, where Europeans and Anglo-Indians have received elected seats in excess of the number to which they are entitled according to the formula.

167. There is no guarantee for that, because in earlier correspondence with Government on the subject of Lahore I definitely asked for a statement that two seats should be reserved for these two communities, and I was told in reply that when the rules for Lahore were framed I could address Government on the subject. Those rules have not been framed yet, at any rate?—The new draft rules have not yet been published.

168. The general position is that as things stand to-day it is possible for Government to frame rules which exclude us from representation?—Entirely. The division of seats among communities is a matter settled by rule made by the local government, and not controlled by statute.

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197. *Sir Hari Singh Gour*: You said that the inefficiency of the local bodies is due to the inefficiency of the staff?—Partly.

198. For how long has this been the reproach with local bodies?—Always.

199. For a very long time?—Always.

200. I take it that the inefficiency of the staff is due to the insecurity of tenure and to the absence of prospects of promotion. What action has your Government taken to improve the staff on these lines?—As is stated in the memorandum, so far this problem has proved insoluble.

201. You mean at paragraph 38 on page 153?—Yes. It is stated that "so far it has not been found possible to arrive at a solution of the problem of reconciling the independence of local bodies with the constitution of an efficient service of local fund servants enjoying security," etc.

202. Have you, for instance, attempted the creation of central government services?—The question was explored by the minister in various committees that were appointed.

203. Would you kindly look at pages 151 and 160\*. At page 151 you point out that recently only two district boards have availed themselves of the offer—you know the offer?—Yes.

204. At page 160 you summarise your conclusions at paragraph 53. To what is this settlement due, and by whom and against whom?—Control is resented often by members of local bodies, and I have heard expressions of resentment of this sort freely made in the legislative council also.

205. That is exactly what I am saying. The local bodies resent interference by the deputy commissioners and commissioners?—Some, yes.

206. And yet when you ask the local bodies to get rid of the deputy commissioners, they do not?—The reference here is really almost entirely to the urban local bodies, as to the control of deputy commissioners being resented, because in practice there is no control over the administration of district boards; they simply dole out money.

207. I thought the reference in paragraph 53\* was a summary of the whole situation?—I say in further explanation that though there is no actual statement that this refers chiefly to urban bodies, it does in fact so refer.

208. As regards factions, would you kindly look at paragraph 55,† where you say that village panchayats have been unable to function owing to the bitterness of village factions. Now, what is the nature of these village factions?—Family feuds, chiefly—family and tribal feuds.

209. *The Chairman*: Perhaps it would make it a little clearer, as you have read that sentence, to say that the power that is referred to is the power of the local Government to "suspend or abolish any panchayat which is incompetent to perform, or persistently makes default in the performance of its duties." It is that power, I understand, which has been exercised in cases where village factions have made the panchayat a failure?—Yes.

210. *Sir Hari Singh Gour*: Are these village factions confined only to certain localities, or are they widespread?—I think you could find them in every district.

211. In every village?—No, there are many villages where they are absent, where panchayats promise to function fairly successfully.

212. What percentage of villages would you consider to be free from these factions?—It is impossible to make any estimate.

213. A question was asked about the commissioner as a useful link between the district administration and the local Government, and you have said that he often gives valuable advice. Now will you give me a concrete case where the commissioner's advice was so strikingly valuable as to justify the retention of the commissioner as an advising agent?—No single instance could possibly justify a proposition of that sort. It was the cumulative effect of a considerable number.

214. Supposing there is a large measure of provincial autonomy in which the minister will be responsible for the administration of local bodies, do you think the intervention of the commissioner would still be necessary?—But that is the position already.

215. You have now added that before the local government was entrusted to the minister you had the commissioner as a local agent of the Government; is not that so?—Yes, and he still occupies that position.

216. What necessity can you see now for the retention of the commissioner when you have got the minister to take his place as the agent of Government in the local self-governing body?—The minister at head-quarters cannot possibly take the place of the local representative of the central Government.

217. Is not the local representative the deputy commissioner?—Above him is the commissioner.

218. Yes, but it is just an accident that he is the commissioner.—As I have already said, experience has shown that in a large number of cases he performs very valuable functions.

219. You cannot give the Conference a single instance?—It is impossible to say that any single instance could possibly justify, by itself, the retention of the commissioner.

220. But you recognise that there is a great feeling among the members of the legislative council and the

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legislatures, central and local, that these commissioners are an anachronism, and must go?—I do not know that I have any particular information on the subject.

221. *Sir Arthur Froom* : Roughly speaking, it was about ten years ago that a movement was started by Government to try and make these district boards stand on their own legs; was not that so?—You mean as regards membership.

222. As regards not having an official chairman, and so on?—Rather more than ten years, really.

223. During that period have you noticed that the administration of these district boards has improved at all with experience?—No, there is not any improvement in the way of the administration of a town; there is nothing but building more schools or building more roads or building more hospitals.

224. They look after education and sanitation; do not you call that administration? They look after roads, or they should look after roads. To put the question in another way, is the position as regards the efficient or inefficient administration of district boards the same to-day as it was ten years ago? Is there any improvement?—There has been improvement to this extent, that there has been more money to spend on these various subjects; otherwise the thing has gone on in exactly the same way.

225. As the district boards have levied taxes up to the hilt (as I think you told us a short time ago) has there been an improvement in the various things they administer, or has the improvement been commensurate with the increased income they get from their taxation?—They have got more of everything. They have more roads and more schools, but I do not know that the roads or the schools are any better than they used to be.

226. Has Government got any remedy for this state of affairs? How are these district boards going to go on if they do not improve?—It is not admitted that any improvement in that respect is called for.

227. They are very good, then?—Their functions are so undetailed, if I can use that expression that—

228. Has your provincial Government, at any time during the past ten years, found it necessary to take back to their control the administration of any subject which previously had been delegated to the district boards? Has that happened in the case of any one of the district boards, or two or three or more?—I cannot recollect any such instance. They have taken back actual roads or schools, but simply for financial reasons, to relieve district boards of some part of their burden.

229. *The Chairman* : I want to follow this. When we were in the Bombay Presidency we were given (among our other material) a number of instances in which the department of Local Self-Government had for the time being suspended or taken over the work of certain local bodies because, unfortunately, they had not operated in the opinion of the authorities in a sufficiently satisfactory way to be given continued responsibility. I think that was the point, was it not?

*Sir Arthur Froom* : Yes.

230. *The Chairman* : What I am not clear about is this. Is there such a power in the Punjab, and has there been any occasion in recent years to exercise it?—There is a power of complete supersession of all local bodies, but that power has never been exercised in respect of a district board and only once that I know of in respect of a municipal committee.

231. *Sir Arthur Froom* : The object of my question is this. I want to learn, as I suppose my colleagues do. You have stated that the staff of the district boards are extraordinarily inefficient and always have been inefficient. How then are they going to get out of the muddle? If you have an inefficient staff there must be a muddle. How are you going to get any improvement? What is to be the future of the

district board? I was astonished to hear the staff was extraordinarily inefficient and I gather from the replies always will be. What is the future of the district boards in trying to carry on local self-government on these lines?—As I explained before, the remarks as to inefficiency of staff and so on were chiefly concerned with urban areas. With regard to district board staffs, I should say that the charge of inefficiency would lie chiefly against the engineering staff, and there is some improvement gradually being made in the class of men who are now obtained as district engineers, and the work has improved in this respect.

232. *Sir Arthur Froom* : It is a question of pay, I expect?—Yes, largely.

233. And your Government has no control over the amount that any district board pays its engineer?—Not as to a minimum, no. The minimum pay for district engineers is not prescribed.

\* \* \* \* \*

239. *Sir Zulfiqar Ali Khan* : Do you think non-communal electorates for district boards are working satisfactorily?—On the whole very satisfactorily.

240. It hinders the interests of no community?—No.

241. Are there any municipalities with mixed electorates?—Yes, large numbers.

242. What is the result with regard to communal representation?—Have you not a copy of the statement showing the composition of local bodies? I think from a calculation I made some months ago, that in places where there are not communal electorates the results have been very much the same as they would have been had there been communal electorates.

243. You think that the result of mixed elections is more satisfactory, and that the communities have no complaint whatever for want of due representation?—In a few isolated cases there are complaints that one community or another has not got the representation that it deserves, but taken as a whole I should not say that there is general dissatisfaction with the arrangements in municipalities in which there are not communal electorates.

244. There are no glaring instances in which Muhammadan interests have suffered?—I cannot call any to mind now. There was one small country town in which no Muslim member had ever been elected since the beginning of time.

245. Which was that?—It was a town called Kartapur.

246. It has no Muslim member now?—It has some now, but from the beginning of time it never had had. That, however, is an exceptional case. I know of no other case like it.

247. Can you tell me if there was another municipality which caused much heart-burning to a sister community, where the Muhammadans were given over and above their due share in the representation?—They were not given more than they were entitled to according to that formula which has been explained; in fact they were given less than Lahore.

248. Then what caused the offence on the part of the Hindu members?—I suppose they were annoyed at no longer being able to command a majority on the committee.

*Raja Narendra Nath* : They never did so.

249. *Sir Zulfiqar Ali Khan* : Does your experience point to the fact that this system of election has caused disruption of ties in families, where, for example, two members of the family are competing for the same seat, and there is disruption of that family tie, or even of friendship?—No, I have never heard of instances of that sort.

*Sir Zulfiqar Ali Khan* : That is very strange!

250. *Lord Burnham* : You have made some caustic remarks, which I am not saying are not justified because I do not know, upon the inefficiency of local boards. For my own information could you tell me

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[Continued.]

how the matter stands in regard to the control of the local Government over works undertaken by local boards which have been brought into the same category as municipalities in respect of that control? Supposing the work is undertaken, road work for example, and it is not properly carried out owing to inefficiency of staff, as a matter of practice do you not look into the matter and take some steps to see that the work is better done?—In the case of works aided by grants from Government there is very close inspection of work carried out, and the local engineering staff are closely supervised by the Government engineering officers.

251. You have to sanction the scheme in the first place, have you not?—If it costs more than a certain amount.

252. Therefore in respect of such scheme there is supervision and control to secure efficiency?—There is an attempt to secure it.

253. That is what I want to know. You do not consider the control is sufficient for the purpose?—In the end it could only be enforced by compelling members of the local body themselves to pay in cases where money has been wanted, but that has never been done.

254. Suppose that the road is made of bad material for which a grant has been obtained, is it not possible to see that it is set right?—Yes, and that is very often done. Orders are issued, and they are more or less executive orders, and the contractor is made to put in proper material and do the work over again.

255. Therefore in respect of all works for which grants are made by the provincial Government, you do secure efficiency by control, or some efficiency?—Some efficiency.

256. Do you think that powers ought to be strengthened for that purpose, because I am aware that the policy has been rather trial and error, and to let people profit by their mistakes; but do you think there ought to be more power exercised by the provincial governments in respect of these matters?—No more power than is possessed is required, but I do think it might be possible to tighten up the use of the powers that are already possessed by Government.

257. You will forgive me for saying that if your evidence is justified they ought to be tightened up?—I say I think there is room for a tightening up of control; but greater powers of control are not necessary. I think we have quite sufficient powers already.

258. It is a question of the use of powers?—Yes.

259. You are quite well aware, I know (though I am not quoting it as an exact parallel) that powers of supervision and control are used pretty freely in England?—Yes.

260. Then I understand you to think that the Government might turn over a new leaf in this matter?—I think during the last three or four years there has been a gradual tightening of control in many respects, and it is continuing.

261. Then things are improving?—I think so.

262. *The Chairman*: Would you turn to page 140\* of the big book, the same page as that to which Sir Zulfiqar called attention. I realise that what is there being quoted is before your time—this Note, and so on—but it sets out apparently a formula or a principle which was devised to be applied to the constitution of municipal bodies; is not that so?—Yes.

263. I do not clearly understand what the formula means. It seems to me that elected seats on municipal bodies should be distributed among the communities in proportion to their population as modified arithmetically by their voting strength. I should like to have a little description of what that means. Suppose you have, for the sake of argument, one community which has a population of 5,000,000 and another community which has a population of

10,000,000. Suppose when you come to voting strength the smaller community has a voting strength of 50,000, and the larger community has a voting strength of 70,000, what is meant by saying that you will distribute elected seats among the communities in proportion to their population—that is not as 1 to 2, but as “modified arithmetically by their voting strength?” That would mean as 50 is to 70.—It is not at all happily expressed. What really is done is to take the number produced by applying the population figures. Supposing that there were nine members to be elected, in your example, you would give three to the one community and six to the other on the basis of population. I do not quite know what it would work out to on the basis of voting strength, five-twelfths and seven-twelfths of the number.

264. Then would you say that in view of the fact that the smaller community was exceedingly strong in voting strength, instead of calling it 3 you would call it 4?—No, you take the actual calculation. You divide the nine members in the proportion of 50–120 and 70–120.

265. Then why do you begin by referring to the population?—You first of all get the figure for the population, which gives you 3 members for one community and 6 for the other. Then you take the voting strength, which would perhaps give you 4 members and 5, and then you take the mean between the two.

266. That is plain enough. If you look at page 19\* you see there not indeed now in reference to municipalities but in reference to the legislative council, some figures of which the bottom line is “Distribution on mean,” which is taking the arithmetical mean between the two?—Yes.

267. “Modified arithmetically” then means taking the arithmetical mean?—Quite.

268. The other question is this, and I think perhaps it is more important. We are only for the moment thinking of municipalities and district boards in the Punjab, but those who have the responsibility of going round India (Sir Sankaran Nair and his colleagues, and my colleagues and myself) naturally are thinking of comparison between one province and another. As I make it out (and I say this to the Conference quite as much as to the witness) the problem of securing some representation for minorities in municipalities and district boards is a problem that has had to be faced in all parts of British India. It seems to me it has been dealt with, or attempted to be dealt with, in one of two ways, and the ways are different according to the province one happens to speak of. In Bombay, for example, we have learned (or at least I have; others may have known already) that the method that is adopted is not the method of nominated members to secure some representation for the minority, but is a method, in the case of Bombay both in the district boards and municipalities, of securing separate election for certain communities, as for instance, the Muslim community, or at any rate in the case of certain municipalities making wards in such a way that you in fact get a block of this religion or the other. As I understand it, though in Bombay, and I think we shall find also in the United Provinces, provision exists for the separate election of Muslims, both in the municipalities and district boards, here in the Punjab an actual working provision is that as far as the district boards are concerned there is no communal election as far as the municipalities are concerned there in effect is. Is that right?—Only to a limited extent.

269. To the extent of how many municipalities?—There are 107, and in about 50 there are communal electorates.

270. In about half?—In addition there are all the smaller towns which are not municipalities but are called small towns. There are over 110 of them.

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so you have got communal electorates in about 25 per cent. only of urban areas.

271. Take the Punjab case. As I follow it, what is done about that in the Punjab in fact is done in consequence of a provincial Act called the Punjab Municipalities Act or Municipal Act, which I think has been amended quite recently?—Constantly, right up to 1925.

272. That is what I thought. There the provision is that the local Government has power to prescribe by rule the number of representatives of each ward or class?—Yes.

273. The point is that it really depends on the legislation of the province and upon the action taken under that legislation, it does not turn on anything in the Government of India Act or on anything which is part of the overriding constitutional structure. Then I understand that in the case of district boards in the Punjab the matter is dealt with in another Punjab Act, the Punjab District Boards Act, under which the mode of appointment or election of members is determined by rules made by the local Government?—Yes.

274. There, as you have told us, the rules as made do not provide for communal representation, and on the other hand ex-officio chairmen are the rule: is that right?—Yes.

275. Perhaps I may just sum it up, to clear my own mind and possibly even to assist the Conference as a whole. It really comes to this. There are two ways in which you may conceivably try to provide for this problem, if it is to be provided for. One

method is the method of securing the minority community from being unrepresented by the method of nomination. That, I think, so far as these local bodies are concerned, is the method followed in Madras, in the Central Provinces, in Bihar and Orissa, and I think (except for Calcutta itself) in Bengal. The other method is the method (no doubt under provincial law) of providing, where it is thought right to do so, for communal electorates. In Bombay that is done both in the town and in the country; here, broadly speaking, not in the country but in a certain number of urban areas. That seems to be the way it works out?—Yes.

276. A conceivable method, no doubt, would be reservation of seats, but in fact I have not yet noticed that in these local self-governing units reservation of seats is commonly employed. You do not have it here, do you?—I think there are one or two towns where that has been tried.

277. *Lord Burnham*: How does it work?—I have never heard any complaints of it.

*The Chairman*: It is not a very large experiment, in any case. I may say that I was led to look into this in this comparative way by looking at the Government of India document to which someone has referred, and more particularly in paragraph 43,\* and at the extremely good appendix, Appendix VI, where you get set out in a page and a half a statement showing the means of representation of minority communities on municipal and local boards in the different provinces.

We are greatly indebted to you, Mr. Beazley, for your valuable evidence.

## LAHORE.

Dated, 3rd November, 1928.

### PRESENT :

ALL THE MEMBERS OF THE COMMISSION (EXCEPT COLONEL LANE-FOX), OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND AND RAJA NAWAB ALI KHAN) AND OF THE PUNJAB PROVINCIAL COMMITTEE.

**Khan Bahadur Nawab MUZAFFAR KHAN, Joint Secretary to the Government of the Punjab, Transferred Departments.**

1. *The Chairman*: I think you, Khan Bahadur Muzaffar Khan, are a member of the provincial service?—I am.

You joined the service in 1905?—Yes.

2. You served as extra assistant commissioner for many years, and I think you were appointed in 1923 as election commissioner of the Punjab?—Yes.

3. I am not quite clear what that means? What is an election commissioner?—Election commissioner is an officer appointed by the Punjab Government to carry out the elections of the legislative council and of the Legislative Assembly. It is an appointment which is made every three years at the time of general elections. The Council of State election takes place after five years.

4. Do you, as a matter of fact, operate as election commissioner when the time comes round to elect to the Council of State?—I did it on the last two general elections twice, but the first time it was done by another officer.

5. I think I am right, am I not, that the election

for the legislative council of the Punjab takes place at the same time as the election for the Legislative Assembly?—Quite so.

6. Or, at least, it has hitherto?—Hitherto, yes.

7. Because each body has a maximum life of three years?—Quite so.

8. And hitherto there has been no premature termination of either the Punjab Council or of any particular Legislative Assembly?—Quite so.

\* \* \* \* \*

10. Is it possible to conduct the elections here at the time when both Council and Assembly have to be elected by means of a common register, or is there a separate register for each?—It is a common register with different serial numbers for the Assembly and for the council.

11. There are people who will be qualified, as things are, to vote for the legislative council who



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would not be qualified to vote for the Legislative Assembly?—Quite so.

12. And, of course, the constituencies are different? Yes.

\* \* \* \* \*

14. I would like to ask you a few questions about the system, but of course we are not in the least concerned with the details, only to get the right outline as to what happens. First of all, as regards the list of electors, how is it made up in this province?—In the rural areas the patwari or the village clerk makes it, and in the urban areas special clerks are appointed. They visit the houses from door to door, and register the names of the various electors who appear to them to be qualified.

15. Then is there some publication of the list in advance of its coming into operation?—Yes, there is the publication at every police station and at every village to which the electors' roll relates.

16. And supposing that it is desired to take objection to the list, either for the purpose of striking out a name that has got in, or for the purpose of adding names that are not there, what is the method?—We allow a period of twenty-one days for that, and any elector who wants to object or to put in a new claim can do so within that period.

17. And in that way a list is ultimately settled?—Yes.

18. In your experience, do you find that the list when settled is a fairly accurate list of qualified and living voters, or do you think that there is a good deal of mistake that creeps in?—I think it is fairly accurate, because it is prepared by very responsible officials in the rural areas, and by people specially appointed for that purpose in urban areas.

19. I was not criticising the competence of the people concerned, but, of course, however competent they are they could not tell whether the elector on the list is going to die. Is there some method by which he is taken off when he dies?—Yes. Every third year he is taken off.

20. Is it the case that the list is made triennially in anticipation of the election which is then going to take place?—Yes.

21. You are fairly satisfied about it? Now, we already had evidence from Mr. Miles Irving which shows how many voters there are for the council elections. I would like you to tell me (it is in the book) how many of those voters voted in the last election. Just turn to page 25,\* paragraph 57. In the second sentence there you say:—"Statement No. 7 shows the total number of votes polled in contested elections."—Yes.

22. Statement No. 7 is on page 50.\* We need not go to previous history. Where do we get the latest figures?—In the same paragraph.

23. Quite right. In 1926, the total numbers of votes polled were 305,873?—That is right.

24. What one notices with interest, and, if I may express it, with satisfaction, is that the percentage of voters going to the poll is rising as the successive general elections come round?—Yes, that is so.

25. It is rather striking. Apparently in 1920, 32 per cent. of the registered voters voted in contested constituencies?—Yes.

26. In 1923, 49 per cent.—Yes.

27. In the last election, 1926, 53 per cent.?—Yes.

28. Apparently in one constituency it went as high as 78 per cent.?—Yes.

29. Do you happen to remember which constituency it was?—No, I could not tell you that off-hand.

30. Considering the largeness of the areas, I think that is a very interesting and striking figure. Of course, looking at that page, one cannot help being struck by the fact that whereas over half of the registered male voters voted in contested constituencies, it is very different indeed about the women voters?—Yes, it is.

31. Apparently in the whole of the Punjab province

in 1926 in contested seats for the legislative council the ladies who voted were 1,190?—Yes.

32. Out of a registered number of 21,000 odd?—Yes. That was the first time when the women voted.

33. That is quite right. Down to this last election there was no female suffrage here?—No.

34. I would like you to tell me in a sentence or two about that side of it. Are special arrangements made for the woman voter?—No, no special arrangements.

35. She comes to the polling booth as a man does?—Yes.

36. What is the explanation, apart from the fact that it is a novelty, do you think, that the percentage of registered women voters who vote is only something like 6 per cent.?—Amongst Muhammadans I think perhaps the *pardah* system has got something to do with it, and even with Hindus and Sikhs, being the first time, I think they are a little backward in coming forward. Then there was a demand for special polling arrangements for ladies, but we could not do it at that time. It is difficult to find a sufficient number of presiding and polling officers.

37. What was the year when women's suffrage was started for the Punjab?—I think it was about the same year when the council passed that resolution.

*Dr. Narang*: If I remember aright, it was 1924 or 1925.

38. *The Chairman*: Only just before the election?—Yes.

39. Those of us who are familiar with elections in England know how often it happens a man comes with his wife to vote. They do not always do so, but it often happens; the woman waits until her husband has finished his work and then goes with him. Is that the sort of way they vote here?—I cannot be very certain on that point, but I think generally the wife would accompany her husband.

*Chaudhri Zafrullah Khan*: Most of the women voters here are not married.

*The Chairman*: Nearly everybody on the women's register is unmarried and is on the register because in her own right she possesses one or other of the qualifications?

*Chaudhri Zafrullah Khan*: Or is a widow.

*The Chairman*: I follow that. If a lady is the wife of a voter it is improbable that in her own right she has the qualification.

*Chaudhri Zafrullah Khan*: In very few cases she has the vote.

*Dr. Narang*: Generally the zamindar women widows are entered as proprietors after their husband's death, and the largest number of women voters will be from that class.

40. *The Chairman*: \* \* \* To what extent would you say that, taking the existing franchise, the voter in the Punjab is illiterate?—The majority of the voters are illiterate.

41. When the voter cannot read, what is done? How is the citizen helped to cast his vote?—He is helped by the presiding officer. He comes to the presiding officer and hands over the ballot paper and asks him to mark the ballot paper for him.

42. We had a description of it when we were in Poona, and no doubt it is much the same here. Is there any actual percentage figure which will show what proportion of the voters is literate and what illiterate?—No, there is no actual figure, but I know this from actual experience. Even in an urban area when I have gone to watch the conduct of the polling I saw literate people coming to the presiding officer and asking him to mark the paper for them.

43. Why do they do that?—Perhaps to hurry it up, or perhaps because they are a little excited and confused. I have seen it in Lahore with my own eyes, even in the case of people who are well read.

44. After all, people become more experienced by degrees?—Yes.

45. I think you said the majority were illiterate?—Yes.

46. That is as definite as you can be?—Yes.

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47. Is it a large majority?—Very large.

48. You consider the large majority are illiterate?

—Yes, a very large majority.

49. An interesting point on page 26\* to which I call attention in passing is that for certain purposes and in certain elections there is voting by post?—Yes.

50. I see you say that since 1920, besides the four Council of State constituencies, postal voting has been introduced for Punjab University, Punjab Chamber of Commerce and Trades Association, and Punjab industries, and since then three landholders' constituencies in the council and one in the Legislative Assembly have been added; I suppose the landholders general, landholders Muhammadan and landholders Sikh?—Yes.

51. Does that work satisfactorily, in your experience?—I think it is quite satisfactory. I have heard only one complaint, and that was that one postal peon was taken away by one of the candidates in his own car with the ballot papers. That was the only complaint.

52. These incidents will happen in the best regulated communities. We may just look at what you say about election petitions at the bottom of page 27\*. I gather from the table there that a certain number has been lodged, but, as happens elsewhere, more election petitions are lodged than are pursued to a successful conclusion?—Yes.

53. Indeed, I gather that for the last council elections there has been no successful petition, but after the first election five were successful, and after the second there were four?—Yes.

54. For the Assembly there seems to have been one which was successful. We can all read this for ourselves, but the Conference will notice that at the top of page 28\* the main grounds are given. What I should like to know is not the main grounds (because accusations and complaints are very easy to put forward) but what was the main ground on which the petitions turned out to be successful. What was the case that was proved to the satisfaction of the tribunal?—I think in one case treating was proved.

55. Entertaining people? We have heard of that in England too.—Yes, and personation in another. Those are the two cases I remember.

56. In paragraph 75 you give the average expenditure as returned by successful candidates for the council. One notices, and is sorry to see it, that the average expenditure so returned seems to be going up?—Yes, it does.

57. Do you think that the figure so returned is a trustworthy indication of what is spent?—It is very difficult to say, but generally speaking I think the figures are correct. I have received complaints from some districts that all that has been spent is not shown.

58. Do I understand that in this province for the council elections there is no actual limit as to the expenditure which may be incurred?—There is no limit.

59. *The Chairman*: As long as you do not spend it unlawfully, that is; you cannot spend it on bribery.

*Dr. Narang*: You will notice it says at the bottom of page 29\* :—"It is generally understood that the actual expenditure in many cases largely exceeds that returned by candidates."

60. *The Chairman*: Yes. I am not asking a question for the moment, but venturing to make a statement. In the past history of parliamentary elections in England, there is no doubt that there have been many very bad cases indeed of extensive bribery: either the direct buying of votes by the paying of money, or in indirect ways which an honest man would think just as bad. There is no doubt whatever that matters have very greatly improved in England, and I do not think it would be in the least right to say that such a system in

practice obtains to-day. I wish you would tell me what your own view is as to the present condition of things in the Punjab in that respect?—Generally, I think, in one or two divisions that I know of, nearly all the electors who come to the polling stations are given food free by the supporters of the candidate, if not by the candidate himself. Then I have heard of another case in which one candidate is reported to have bribed the electors, but that is only one case.

61. You mean by paying money?—Yes.

62. What one would like to know is what your view is as to the extent to which that kind of thing may occur here. It may very well be a thing which will improve in the course of years, as I have pointed out it has improved in England. It was not always good in England. What is your view?—I do not think so far the complaint is general.

63. I was not asking whether there is complaint about it. I have no doubt the recipient does not complain and I do not suppose the candidate complains. I am asking whether it happens?—It did happen in one or two districts.

64. The only thing that will help to make that better is a healthy public opinion, and nothing else?—Quite so.

65. What do you think is the position about that? Do you think a more healthy public opinion is growing?—I think it is growing, though very slowly.

66. Can you give us, in a word or two, your view as to whether the size of constituencies is suitable or unsuitable from the point of view of securing a reasonably efficient working of the electoral machine?—From the point of view of elections, however large a constituency may be I do not think it would make a difference, because districts are our units, and if one constituency extended over more than one district the arrangements would be duplicated.

67. It was pointed out by one of the members of the provincial committee yesterday—a very striking fact to me—that the whole of the Multan division was one single constituency?—Yes.

68. Of course, that is an enormous area?—It is.

*Dr. Narang*: Sometimes more than a division. Mine is a division and some districts form another division.

\* \* \* \* \*

70. I understand that the Multan division returns one member?—Yes.

71. Because here it is all single-member constituencies?—Yes.

72. What would be a fair round figure to take, speaking of the Multan division—so many miles long and so many miles broad?

*Chaudhri Chhotu Ram*: Somewhere in the neighbourhood of 25,000 square miles.

*Dr. Narang*: I know my constituency covers about 40,000 square miles.

73. *The Chairman*: Of course, as Sir Hari Singh Gour points out to me, the population of the Multan division is sparse and spread out?—Yes, specially in the case of Muhammadans.

74. And that is always a difficulty?—Yes.

75. Certainly, some of these areas are very big?—Yes.

76. *The Chairman*: Is it inconvenient, since this is a free Conference, to ask you gentlemen on my right what your view is about that?

*Chaudhri Zafrullah Khan*: A constituency of that kind would be inconvenient. I happen to have one solid district, so it does not matter to me so much.

*Dr. Narang*: If you will look at page 44,\* you will find a constituency there—it happens to be mine, but that does not matter—Constituency No. 6, North-West Towns. That gives you an idea.

*The Chairman*: That is grouping together in one constituency a series of widely separated towns?

*Dr. Narang*: Yes; I have to go a distance of 200 miles from Lahore up to the Indus.



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*The Chairman* : Then the intervening country is no part of your constituency ?

*Dr. Narang* : That is so.

*The Chairman* : We have the same thing in a smaller degree in England. We group together boroughs. Mr. Lloyd George is member for Carnarvon Boroughs, and Sir Henry Campbell-Bannerman was member for Stirling Burghs. There are a number of such cases ; but the distances between one borough and another with us are not so great.

*Raja Narendra Nath* : My constituency covers the whole of the Punjab. That is representing special interests.

*The Chairman* : I do not see how that can be avoided. That, after all, is not perhaps a geographical constituency so much as the representation of special interests ; but the striking thing is when we come to purely geographical areas they are sometimes this size.

*Chaudhri Zafrullah Khan* : The best illustration is this Multan division.

77. *The Chairman (to the Witness)* : Have you a view yourself as to whether it would be better to increase the number of members by reducing the size of some of the constituencies ? Of course, you have got to remember that if you reduce the size of a given constituency it means increasing the number of members ?—Yes.

78. What is your own judgment, on your experience, of this, speaking from the administrative point of view ?—The population of Hindus in that division—that is a non-Muhammadan constituency—would be so small that if you allotted a certain number of electors for one member I think perhaps you would find it very difficult to reduce the area of that constituency.

79. That raises another interesting point, and I am not sure that I know here in the Punjab : I know how it is in Bombay. Let us take a constituency with boundaries, the Multan division or anything you like. Now, there will be, will there not, a Muhammadan constituency where all the Muhammadans vote ? Is that right ?—Yes.

80. Or more than one ?

*Chaudhri Zafrullah Khan* : Multan division returns about six or seven members.

81. *The Chairman* : That means that for the purposes of returning Muhammadans the area is broken up into six smaller areas, each a separate constituency ?—Yes.

82. Then when we come to the non-Muhammadan constituency in the Multan division, I gather it is a single constituency of all one ?—Yes.

83. I do not quite understand your last remark, that if you made the constituencies smaller you would have too few people of a particular community to make a constituency. For instance, it would be conceivable to divide the Multan division not into six areas but into nine ; instead of there being one Hindu member there might be two. I do not follow why you say the difficulty of sub-division would be that you would not get enough people in the constituency ?—If the population is small, naturally the member allotted to that area would be one, according to the population basis.

84. It really comes to this. You have got to take the population or the total of the electors or whatever the proper figure to take is. You have got to divide it by some figure or other which will guide you to the total number of elected members on the council ?—Exactly.

85. Then it becomes a question of the suitable distribution of the seats ?—Yes.

86. *Lord Burnham* : I am not quite clear as to the difference between the electoral areas for the legislative council and for the Legislative Assembly. Taking Multan division, for the two purposes of the general electorate and the Muhammadan and non-Muhammadan, could you tell us ?—I explained that as far as the electoral rolls are concerned we make them by police stations. Police stations are our

units ; however big the constituency may be, our electoral roll will be for that police station. Now, supposing for non-Muhammadans the whole of the Multan division and the Rawalpindi division is a constituency, and for the council it is a smaller constituency, then we shall prepare electoral rolls for a smaller area, and those electors, whether they are of the Assembly or of the council, would go to the same polling station. The extent of the constituency would not make much difference in that, as far as the conduct of elections is concerned.

87. Although, of course, they are a different set of electors ?—Yes. We give different serial numbers. We will take a polling area, which is a *thana* in this case, and there are, say, 8,000 voters for the council amongst non-Muhammadans ; there may be 50 voters for the Assembly, and those 50 voters will be separately numbered, 1, 2, 3 and so on ; so when an elector comes to that place he will see what his number is, and he will poll in that polling area or in that polling station. Then those ballot papers would be collected and sent to the returning officer concerned. So there is no difficulty in that.

88. But as the number of electors is smaller for the Legislative Assembly, the constituency is therefore more scattered ?—Yes.

89. And more difficult, I imagine, for the member to get at, or the candidate, I should say ?—Yes, very difficult for the candidate to get at.

90. He can only do so through the post ?—In the case of those constituencies in which the number of electors is limited, we do it by post, as for instance, in the case of the Legislative Assembly, special constituency, but in the case of general constituencies I think it would be very difficult, and even then the candidate will not gain by it, because he has to approach the same elector whether he votes by post or—

91. *The Chairman* : I think there is a slight misunderstanding between you and my lord. I think my lord's question had to do with the extent to which the candidate is able to get into touch with his constituents. He was not speaking of how the constituents voted.—Generally the candidate canvasses by post, and then I think the member of the Legislative Assembly approaches the local candidate of the legislative council and asks him to canvass for him, too, in the rural area, because the candidates for the local council or their agents generally attend every polling station, and this candidate of the Assembly also asks them to canvass for him in the rural areas, and he also does it by post. He sees the electoral roll, and wherever he finds the number of voters in towns is very large he sends his agents to canvass for him.

92. *Lord Burnham* : Then virtually speaking there is no personal touch as between man and man ?—No.

93. *Major Attlee* : On the question of election petitions, you have not had very many ?—No.

94. Is it possible that more election petitions might have been brought had not the petitioner known that he was in the same case as the person he would like to unseat ?—That is possible.

95. You were asked with regard to bribery. Would you say there was much undue influence by persons in a superior economic position, landlords, moneylenders, and so on ?—No, not so far.

96. Is there any pressure put by village officials ?—Government issued very strict instructions that no officials were in any way to influence the conduct of elections.

97. Are they carried out ?—I cannot be sure. I think there were complaints from certain parts that official influence was used. I do not say that Government in any way influences the conduct of elections, but officers sometimes help their friend and disobey the instructions issued by Government.

98. When the electors come from their villages to vote, do they come individually or does the village sometimes come as a whole, almost marching to the

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Extracts from official oral evidence.  
by. Simon (commissioner report)  
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polls?—They come as a whole if they support the same candidate. If they supported different candidates they would come in two parties. In one district they came with bands playing in front of them.

99. That is quite like old times in England! Do you think the ballot is really secret in the case of the illiterate voter?—As far as the presiding officer is concerned it is not secret, because he knows it; and in certain areas I notice the electors do not much dare to make a secret of it.

100. *The Chairman*: They do not mind saying for whom they voted?—No.

*The Chairman*: Whether truly or untruly!

101. *Major Attlee*: Do you think the presiding officer ever gives them away?—No.

102. You have got an adequate staff all round to secure the secrecy of the ballot?—I do not think there has been a single complaint throughout the province that the presiding officer has given a voter away.

103. With regard to the giving of meals and rides in carriages and so on, would you regard that less as real bribery and more as a friendly act to people who come from a distance?—I would not call it bribery. In the rural areas there are no shops, no regular shops, and there is a general custom in rural areas that whenever a stranger comes he should be given food. I would not call it bribery, it is more a sense of hospitality that prevails.

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105. *Major Attlee*: Would you say that treating was not really bribery at all, but more a hospitable custom?—Yes, I think it is a hospitable custom, but it is a corrupt practice according to the rules.

106. But more technically than practically?—Yes.

107. The entertainment is not so much to bribe as to be kindly?—Yes.

108. *Mr. Cadogan*: Do I understand from you that the machinery for recording the votes leaves nothing to be desired so far as secrecy is concerned? You do not suggest any change?—No; so far as secrecy is concerned I have heard no complaints.

109. Therefore the question of influencing, with secret voting, is not so important?—I have heard no complaints.

110. *Lord Strathcona*: In paragraph 61 on page 25\* you refer to the question of personation, and it is stated there that in subsequent elections there was personation, but the figures are not high?—Yes.

111. In your experience, do you think a lot of "dead men" vote? That is to say, people die and other people take their places?—I do not think so.

112. The electoral rolls are sufficiently up to date to avoid that?—Yes. Before the election takes place we revise the rolls.

113. With regard to the deposits which candidates have to make, would you give me a rough idea of what the amount is?—I think Rs. 500 for the Assembly and Rs. 250 for the council.

114. *The Chairman*: In what event do they forfeit it?

*Dr. Narang*: If they poll less than one-eighth of the polled votes.

115. *Captain Sikandar Hayat Khan*: With regard to electoral rolls, have you noticed that in urban areas two persons may be entitled to vote for one and the same property, for instance, the owner of a house coming within the classification, and his tenant, while in rural areas this is not so, and only the owner of the land votes?—Yes.

116. Do lessees of land other than Crown land vote in rural areas?—No, only lessees of Crown land.

117. Other lessees are not qualified?—No, not according to the rules.

118. I suppose you know there are joint electorates for district boards, there are no separate

electorates so far as election to the district board is concerned. Could you tell us whether the creditors or other people have an influence over the voters?—I have no experience of district boards at all.

119. You were also in charge of the Gurdwara committee elections?—Yes.

120. What is the qualification there?—Every Sikh who is twenty-one years of age and over is entitled to vote—both male and female.

121. Have you found any difficulties in elections, although they have adult franchise?—There were difficulties, but the number of people actually registered was not very large; it was about the same as in the case of the council. In the council it was 7 lakhs and in the case of Gurdwara it was 8.

122. For one community alone?—Yes.

123. With regard to election expenses, you told us you had heard, or had had complaints, that the actual expenses were not shown. Would you agree with me if I told you that in most elections the usual expenditure is about Rs. 10,000?—It is for the candidates who spend the money to say. I cannot be certain on that score.

124. Have you heard that in one constituency in the Punjab at the last election the candidates spent at least Rs. 30,000 to Rs. 40,000 each?—Yes, I heard that.

125. That would mean that a peasant proprietor or other small man would have no chance at all?—Yes, if all the constituencies acted like that he would not have a chance.

126. Do you think that if the tenants were also enfranchised the increased number of voters would probably lessen the chance of bribing the voters? You have constituencies now where there are only two or three thousand voters, but if there were ten to fifteen thousand would it lessen the possibilities of bribery?—It depends on the length of the candidate's purse!

127. Very few women electors come to the polls. Do you think that is due to the fact that no special, separate arrangements were made?—Partly.

128. Do you think if there were separate arrangements more women voters would come?—Yes, I think so.

129. You also refer to the *purdah* system. May I ask you to inform the Conference what percentage of Muslim women are in *purdah*?—I said it was partly due to *purdah*.

130. You will agree with me that very few Muslim women are in *purdah*? For instance, in rural areas they are not?—Not in the tenant class, generally.

131. Or even in the small peasant proprietor class?—I have not any experience of other districts, but so far as my own district is concerned I think even the small peasant class would be.

132. *The Chairman*: What is your own district?—Attock.

133. *Captain Sikandar Hayat Khan*: Will you agree with me if I say that in your district (which is also mine) the percentage of *purdah* women would be only about 10 per cent. of the total?—Yes, about that, I should think. Generally it is the proprietor class.

134. *Lord Burnham*: Is 10 per cent. the usual average you would take for ladies in *purdah*?

*Captain Sikandar Hayat Khan*: Yes.

*Dr. Narang*: It is much less.

135. *Captain Sikandar Hayat Khan*: That is the outside figure; I agree it is probably much less. (To the Witness): You say that the majority of electors are illiterate, and I agree with you that they are at the present time; but do you feel that during the last two or three elections there has been a gradual increase of political consciousness among the voters?—Yes, certainly, and even if the voter is illiterate I think he starts taking a keen interest in the elections.

136. With regard to the personal touch, do you think it is at all possible in these larger constituencies to have personal touch at all?—No, it is difficult.

137. You think there would be more opportunities



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of getting into personal touch with the voters if the size of the constituencies was reduced and the number of members of the council increased?—Certainly.

138. You say there that the government expenses in connection with elections have gone down gradually?—Yes.

139. Although there has been an increase in the number of voters at subsequent elections?—Yes.

140. Does that mean that if the system is efficiently worked you can keep down the figure, and even reduce it further?—I think we have reached the minimum. It would be very difficult to get it lower.

141. If the number of voters was doubled, do you think the election expenses would also be doubled?—The staff at head-quarters would remain the same, but it would mean an expenditure of Rs. 30,000 for every one lakh voters for printing and miscellaneous expenditure.

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146. Then with regard to polling in the rural areas. Polling takes place I understand at police station head-quarters?—Yes.

147. In urban areas polling stations are erected in various sub-divisions of the town?—Yes.

148. So far as urban areas are concerned polling stations are practically at the door of the voter?—Quite right.

149. So there is no question of conveying him to the polling booth?—Not to such a long distance.

150. In the rural areas what is the average distance which an elector is required to travel in order to go and record his vote at the polling station?—On an average it would be between ten and fifteen miles. But in sparsely populated districts it may be even thirty. In Kangra side it may be fifty.

151. Which he has got to travel at his own expense?—Yes, but those are very sparsely populated districts, Kangra, etc. On the average it is between ten and fifteen miles.

152. *The Chairman*: Is that about your experience, Chaudhri Saheb?

*Chaudhri Zafrullah Khan*: Yes.

153. Generally of course in the Punjab we know that there are not very many good roads in the rural areas, so that the man has either to walk or ride that distance?—Yes.

154. With regard to arrangements for polling women's votes—I do not now enter into the question of what technically is or is not *purdah*—is it a fact that each voter whether male or female has to be identified so far as his or her appearance is concerned before the ballot paper is issued?—Yes.

155. I would ask you from your personal experience of the conditions in the Punjab, so far as the Muhammadan community is concerned, whether there is any *purdah* or not, to say whether a Muhammadan woman voter would not have objection to having to be identified by a male identifier before a ballot paper could be issued to her? It does not matter whether there is any *purdah* or not.—

*The Chairman*: The question suggests that there should be a female identifier.

*The Witness*: I think, not for all classes.

156. *Chaudhri Zafrullah Khan*: But as you said, the peasant proprietor classes in the rural areas?—All depend on the men. If there was a lambardar who was of the same village she would not mind, but if there was quite a stranger she would certainly object.

157. Do you think the hesitation to go to the polling booth on the part certainly of Muhammadan women is largely owing to the publicity at the polling stations, and if there were special arrangements by which women could be identified by women and if the recording of votes was at a place where there would not be so much publicity, there would be a larger number of women coming in?—It is due to the apathy.

158. In the absence of special arrangements that

reluctance would continue?—It would. If we appointed female presiding officers probably the number might increase, but it would be impossible to do so. Even in the case of men we experience a good deal of difficulty, and it would be practically impossible to provide female presiding officers.

159. That is what I am putting. I am not blaming you. All that I say is that under present arrangements the reluctance of the better class of women voters, particularly among the Muhammadans, would continue, the reluctance to appear at the polling booth would continue?—I have told you that this time it was due to the apathy of the electors.

160. I want to find out whether you feel, apart from apathy, if there was a lot of canvassing and so on whether there would not still be that reluctance on the part of better class Muhammadan women?—Yes.

161. Is it not a fact that a considerable number of Indian Christian ladies went to the polls at the last election?—I could not tell you. I do not think we have got any figures for Christians.

162. Now, what class of officers do you employ as polling officers and presiding officers?—During the first two elections we had judicial officers—magistrates, munsiffs and sub-judges. At the last election it was found very difficult to spare them and so we employed officers from other departments, and a certain number of lawyers.

163. They were mostly non-gazetted officers?—Both gazetted and non-gazetted. The number of non-gazetted officers was large.

164. Were there many more complaints in the last election with regard to irregularities committed by polling officers than there were during the first two elections?—In what respect?

165. For instance, as to failure to provide facilities and trying perhaps to favour one candidate or the other at the expense of the rival candidate?—I could not tell you. I think in one or two districts there were such complaints.

166. And a request that the polling officers should be changed?—Yes, and we changed them.

167. This kind of complaint was received in a larger number in respect of the third election than in respect of the first two?—In the first election there were very few complaints. I do not think there was much difference between the second and the third.

*The Chairman*: That might be explained by what appears to be the increasing interest and increasing keenness.

168. *Chaudhri Zafrullah Khan*: I shall put the question direct—whether it is not the Nawab Saheb's experience that candidates appeared to be more satisfied with the arrangements during the first two elections when gazetted officers were in charge than with those at the third election?—I think there were very few complaints in the first election. As regards the second and third I must say that there were more complaints than in the first election.

169. With regard to election petitions, in answer to a question from Major Attlee, you said that it might be that a good many people did not contest these elections out of fear that perhaps something might be proved against them. Is it not a fact that so far as our electoral rules are concerned here, a disappointed candidate can contest the election of his rival candidate merely for the purpose of having him unseated without any fear of counter charges, because in a petition of that kind no counter charges can be made?—I think they can be. That man might be disqualified if any charges are proved against him. He will be disqualified for standing for election for five years.

170. Unless there is a claim in the petition that the successful candidate should be unseated and the contesting candidate should be declared elected counter charges cannot be made?—I think they can be made.

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172. *Raja Narendra Nath*: I think *purdah* is supposed to be a Muslim custom, but you know that Hindus also adopt it?—Yes; specially Kashmiri Pandits.

173. Do other Hindus do it?—Yes, other Hindus too observe it.

174. With regard to the giving up of *purdah*, I suppose it is making some progress even amongst Muhammadans, though slowly?—Very slowly amongst Muhammadans.

175. With regard to the joint electorates, you have had experience of officers supervising elections. For the landholders' seat in the Assembly there is a joint electorate?—Yes.

176. Without reservation of seats?—There is one seat reserved.

177. There is no reservation on communal grounds?—No.

178. Was there any difficulty about conducting those elections?—That was by post.

179. If joint electorates were introduced with reservation of seats for territorial constituencies, do you think there will be trouble in managing them?—It is very difficult to predict so far ahead.

180. You have had experience of elections, and you can very well imagine the condition of things that will prevail. Cannot you give me an answer?—You mean to say about joint electorates?

181. Joint electorates with seats reserved for each community. Do you think there will be difficulty in managing?—From the point of view of an election officer, I do not think so, sir.

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189. *Dr. Narang*: May I just know, Nawab Saheb, whether, when electoral rolls are prepared in urban areas, people get any sort of information that such rolls are being prepared so that they may take care to get their names enrolled?—Yes, we give notice in newspapers.

190. But you do not issue any posters, or post them on the walls in various wards of the city?—Yes, we did it in the case of Lahore and Amritsar.

191. Only in those two places? Not in other towns?—Not in other towns.

192. Is it a fact that honorary magistrates and sub-registrars are also allowed to stand as candidates?—Yes; they are non-officials for purposes of candidature.

193. But would you admit that honorary magistrates in the rural area exercise a great deal of influence in the *ilqa*?—Yes, that is why he is appointed.

194. The *raison d'être* for his appointment is that he is a very influential man?—Yes.

195. And if he stands as a candidate, it is likely that his influence will be abused?—All depends upon the candidate.

*Dr. Narang*: Yes, upon that no doubt, unless he is an angel.

*Captain Sikandar Hayat Khan*: If an honorary magistrate is related to one of the candidates, he has to relinquish his powers for the time being, and later on he can be re-appointed.

196. *Dr. Narang*: So that his powers are only suspended for the period the election is going on?—Yes.

197. I want to ask you about the rules regarding the acceptance or rejection of nomination papers. Are you aware that different returning officers follow different methods and that there is a lack of uniformity in dealing with nomination papers?—Yes.

198. And as a consequence many election petitions are filed?—Not many, I think one or two election petitions; perhaps one only.

199. In your opinion is it not desirable that some specific instructions should be embodied in the rules or issued by the election commissioner when the time for election comes to secure greater uniformity in this matter?—Yes, it is.

200. In a Hindu joint family, say, where there are four members, the father and three sons, you know they are all equally interested in the property and are

joint owners of it unless there is a partition. Is it only the father who gets the vote, or do all the members of the joint family get votes if their property were divided into four parts and each man gets a sufficient share which will qualify him for a vote?—As far as agricultural land is concerned, we look to the entries in the revenue records. If it is a joint family, it bears the name of all those people.

201. It does not present any difficulty in the rural areas, because in the revenue records every one is recorded, although even there in the case of a joint family I would say that it is only the father who is recorded, and it is only after his death that the land is divided in the name of his sons?—Yes.

202. Take the case of an urban Hindu joint family. The property is worth, say, a lakh of rupees, and the owner has three sons. Will all of them be entitled to vote?—Yes, if people come forward and tell us that they are entitled to vote we would register them.

203. The presumption is that in a joint family they are all joint owners?—Yes.

204. Then why do you wait to be told?—If we do not know the names of all those people, then only that arises.

205. They are given the right to vote?—Yes, they are.

206. *The Chairman*: I should like to follow that point. May I just put my question? Let us suppose that you have a piece of agricultural land which is assessed to land revenue at exactly Rs. 25. And let us suppose that this particular piece of land is owned by a joint Hindu family. I gather that they will quite naturally have to be put in the registers where mutations are recorded, and they might not only get down to owner A, but you might have to put it in the name of owners A, B, C, D, and E. If there are five and if you divide 25 by 5 each will only have a fifth. I understand that in that case neither A, nor B, C, D, or E would ever get a vote?—Yes, that is true.

*Dr. Narang*: As a matter of fact, even in the case of a joint Hindu family it is only the father who is registered.

*The Chairman*: In the illustration I put nobody will have a vote.

*Dr. Narang*: They would not be in the register. Only the father will be shown in the register.

*The Chairman*: The father is the only person shown in the register and he has got one vote as head of the family though the property belongs to a joint Hindu family paying Rs. 25 land assessment.

*Dr. Narang*: My question was directed to the case of urban areas where there is no record of property held by separate Hindu individuals.

*The Chairman*: Supposing now we have a property again in the country which is not assessed at Rs. 25, but at Rs. 125. If there are 5 men on the register as joint owners, will each of them have a vote?

*Dr. Narang*: They ought to have.

*The Chairman*: What is your point in regard to urban areas?

*Dr. Narang*: In urban areas there is no such record available. Supposing there is a joint Hindu family owning, say, Rs. 16,000, and there is a father who has three sons. Each of them will have the qualification to vote as owning immovable property worth Rs. 4,000.

*The Chairman*: You divide 16,000 by 4?

*Dr. Narang*: Yes.

*Lord Burnham*: If the name of the father alone is inserted in the case of the land assessment it is to that extent an evasion of the Electoral Rules. He would not be entitled as being a member of a joint family, but only as representing a joint family?

*Dr. Narang*: I quite appreciate the objection, but that may be counteracted in another way. Because after all it is only a partition that has to determine what is to go to each member. Land may go to one, and some other property may go to another. So the benefit of the doubt should be given to the father.

*Lord Burnham*: It is an electoral qualification.

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210. With regard to corrupt practices I find that supplying of conveyances is also a corrupt practice under the rules?—Yes.

211. Do not you think that in the rural areas supplying of conveyances should be expunged from the list of corrupt practices as it is most inconvenient for rural voters to go to the polling booths without any conveyance?—I would not expunge it. There is some check and if we remove it altogether, the rich people will have it all their own way.

212. It does not mean anything?—I would not remove it. It would mean a lot.

213. I can understand it in the case of, say, bribing, or giving of food, etc.?—Even here, if a man could afford it, he would bring his voters easily to the polling booth in a car and take advantage over a comparatively poor candidate.

214. Would you rather see that voters do not exercise their right than that a more resourceful man should bring them to the polling booth?—Yes, that is what I mean.

215. Though many voters would remain without voting?—Yes, rather than a man is elected who does not represent his constituency. That would be the result. It may be that one man will be in a position to spend more money.

216. Is it not your experience that "A" goes in the motor car of "X" and votes for "Y"?—I think they have a sense of honour to some extent.

217. There is no question of honour involved, and that is what very often happens. People go in a motor car or even lorry?—It may happen.

218. You said twice in the course of your examination-in-chief, if I may so put it, that there is a great dearth of polling officers?—Yes; I admit.

219. Supposing universal suffrage is given to the country, you will find it practically impossible to make arrangements for polling?—Very difficult.

220. Extremely difficult?—Yes, extremely difficult.

221. Besides this you will also admit that it would be extremely difficult for a candidate to come in personal contact with such a large number of voters if universal suffrage were the rule?—That will depend upon the size of the constituency.

222. Supposing the present constituencies remain as they are and universal suffrage were introduced, then it is difficult?—Certainly.

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224. The question was raised as to the identification of women voters and you said identification is necessary. Do you not think that it was really overstating the thing? Do you not think that the necessity for positive identification arises only when it is challenged?—Yes.

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235. This memorandum points out that tribal relations play an important part in elections. Is it the case also with regard to the urban areas or is it only in the rural areas?—It is general in the rural areas; it may be so to a certain extent in urban areas.

236. Was this relationship playing a greater part in the first council than in the second council?—There has been an improvement to some extent.

237. It is pointed out in the memorandum that in the Gurdwara Committee elections only 14 per cent. of the electors voted. Is it not a fact that the elections were very keenly contested?—The figures do not show that.

238. I am not talking of the figures. You know as a matter of fact that the Gurdwara question was a very live question in those days and the Sikh people were very keen about it?—Yes.

239. Then what is the reason for this low polling?—I think the condition of weather had something to do with it. The elections were held in June and July, which were the hottest months, and the people were also busy with their crops.

240. There are no crops in July?—In June there are and in July they go on with their ploughing.

241. Ploughing goes on all the year round?—There is no ploughing from November till April.

242. July is not a very busy season for the cultivators?—Fairly busy.

243. Is it not due to the fact that the people below a certain standard—you may call them people at the bottom—do not care to vote?—I think it depends on canvassing and the initiative taken by the candidate. If there is sufficient canvassing the electors would vote.

244. Below a certain standard the people are illiterate and they may not care to vote. Let me make my point clear. If universal suffrage is given as in the Gurdwara elections, there will be very little personal contact between the candidate and the elector?—Not necessarily.

245. That has been the result in the Gurdwara elections?—My view is that it is due to other causes. For instance, we carry out the council elections in November which is a convenient period and in the case of the Gurdwara elections it was the hottest period. This could not be helped as we had to hurry on the elections under the provisions of the act.

246. In the case of female voters if separate arrangements for polling are made, will not the polling improve?—Yes.

247. Rai Sahib Chaudhri Chhotu Ram: In the case of urban constituencies, all the towns comprising the constituency are generally connected by rail?—Yes.

248. With regard to secret voting, do you think people care very much to keep their votes secret?—No.

249. Do you not think that the percentage of men who are to keep their votes secret will be very, very low indeed?—It is very difficult to say.

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252. In the case of illiterate voters, do you not think that if one of the officers who is responsible for marking ballot papers were so minded he could determine the actual result of election?—No, because the constituency extends over a vast area and there are different presiding officers in different areas.

253. No, what I meant was, if he marked the papers wrongly?—It would affect the elections; that is self-evident.

254. In the case of lessees is there any minimum period fixed for which they must vote?—Three years, I think; it is in the rules.

255. Sir Arthur Froom: On page 50\* is shown an increase in the percentage of votes to voters between 1923 and 1926 and the increase is 4 per cent. Is not that so?—Yes.

256. Would you tell the Conference if, with that increase, it might be reasonable to suppose that the expenses of the candidate would also increase?—They would.

257. Turning to page 28\* I notice that although the increase between 1923 and 1926 in the percentage of votes to voters is 4 per cent., yet the average expense of the candidates has increased by 130 per cent.?—Yes.

258. Would you be inclined to tell the Conference any deductions you have arrived at from that increase? Why have the expenses gone up so much?—I am afraid I am not in a position to answer that.

259. I have only one more question to ask. It is a similar question to that which the Rai Sahib had put. I did not quite catch your reply. You told the Conference that the greater number of electors who go to polling stations are illiterate?—Yes.

260. There are certain number of voters who though literate, because they get confused at the polling stations also ask the polling officer to mark the voting paper just like the illiterates?—Yes. My experience is confined to the Lahore town only and that to two polling stations where there were about 1,500 voters. I cannot say for the whole province.

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[Continued.]

261. Let us confine ourselves to the illiterate elector who goes to the polling station and asks the polling officer to mark his paper. Would it be possible, or have any cases come to your knowledge of the polling officer influencing the vote of the elector?—No.

262. *Sir Hari Singh Gour*: I wish to ask you something about the Legislative Assembly. If you glance through paragraphs 54, 82 and 90 of this book, you will be able to answer my question. Paragraph 90 really sums up the whole thing. It is there stated that comparatively speaking less interest was taken in the elections of the Legislative Assembly than in the case of the council. Do you think you can suggest any means by which greater interest might be taken by the electors and a better type of men secured for the Legislative Assembly?—Unless you improve the mentality of the electorate, it is very difficult.

263. But there is temptation here of greater power being placed in the hands of the councillors in the local council. Is not that so?—What power?

264. The possibility of being ministers.—All the members cannot become ministers.

265. There is the possibility of three of them becoming ministers. Well, do you think that the best type of men come up in elections to the local council?—It is very difficult to express any opinion on that point.

266. Do you think that our present electoral system secures for the service of the State the best men available both for the local council as well as for the Legislative Assembly, so far as your experience goes?—It would be saying something against the members of the Council which I would not like to do.

267. You need not have any compunction on that score; you can give free expression to your views because we would like to have your valuable opinion on this matter. (After a pause). I think you are of opinion that the best type of men do not come in.—I think some constituencies have returned very good men.

268. As a rule the best type of men do not offer themselves for election?—I cannot say that. For instance, men like Lala Lajpat Rai, Dewan Chaman Lal and others have succeeded in the elections to the Assembly.

269. Are the candidates who offer themselves to the legislative council and the Assembly the very best?—I do not think there is very much difference between candidates in the Council, but I cannot say whether they are the best.

270. Do your elections for the Legislative Assembly and the local council take place simultaneously, i.e. on the same day and at the same time?—Yes.

271. Do you think that the voters are influenced by religious considerations? For instance, a man comes up and says "I am a protector of the cow and will try to prevent its slaughter," or a man says "I am a Maulvi, a preacher, in a mosque and so vote for me"?—I do not think I have heard or seen manifestos of that kind.

272. Are the elections then influenced on the basis of any outstanding public question?—In rural areas, more or less on personal influence.

273. Personal influence and communal ties?—I will not say that. There are separate electorates for all the communities and so there could be no communal question.

274. Consequently, the communities sending their candidates to the local council will not be influenced by any outstanding public question. Is not that so?—As I said, personal influence plays an important part.

275. There is no well-defined political programme nor any question put before the electors that "if you send me to the legislative council, I will do such and such a thing"?—I do not remember having seen any such manifesto. I can say this much that the Hindu Sabha scored over the Congress this time.

276. Was it not influenced by communal considerations?

*Raja Navendra Nath*: By political considerations in the sense that it is not communal but national.

277. *Sir Hari Singh Gour*: You have said about feeding—supplying of meals. Is it done on the best or on the ordinary scale that would be given to a guest who comes, that is to say, is it merely showing hospitality to the man who has come or are extra large sums of money spent for feeding him with a sumptuous banquet so that he would be better prepared to go and stand at the poll?—I do not think that any sumptuous feast is given. It is just the ordinary hospitality which a zamindar shows to another zamindar.

278. That is to say the same sort of food is given to him as if he had come without any vote in his pocket?—Yes.

279. As regards conveyance, you said you were against the provision of the electoral rules because although employment of conveyance is a corrupt practice it is not sufficient to unseat the candidate unless it has materially affected the election. If you are to make this corrupt practice more drastic, that is to say, that if a man employs a hackney carriage or a taxi it would be a corrupt practice and would disqualify him, would it not prevent a very large number of voters from going to the polls?—It would.

280. So a man who employs a Rolls Royce has a better chance than one who can afford only a Ford car?—I myself would like to go in the Rolls Royce.

281. Now as regards secrecy, there is a provision in the various provinces of providing coloured boxes. The candidate has a red box, a blue box, a green box or a chocolate box, and absolute secrecy is ensured by giving the voter the ticket with the name "red, blue, green" and so on, so that he can vote for the green man or the blue man; that ensures absolute secrecy. Do you suggest that for the purpose of ensuring greater secrecy, some system like this could be introduced in the Punjab?—It is impracticable in one respect. You see it depends upon the number of candidates, and in the Punjab we have to deal with three communities, the Hindus, the Muhammadans and the Sikhs, who have to come to the same polling stations. Supposing in the three non-Muhammadan constituencies there are six or seven candidates for the Assembly and many more for the local council. How can you have so many coloured boxes? It would be impossible.

282. There may be slight variation to obviate that difficulty. Give them coloured voting papers; and give a man a red or blue coloured box.—We have also different colours, white for Muhammadans, blue for Sikhs . . .

283. Not that. White for Mr. A, black for Mr. B, and so on.—That would be impossible because we have not so many colours. Suppose there are thirty candidates who have to poll in the same polling booth, I do not think that you can suggest thirty colours.

284. Do you think it would encourage the candidates to issue manifestos on a larger scale and do better canvassing by means of posters and printed literature if some postal facilities were given to the candidates? For instance, say, during election time the election literature shall be carried at the book-post rate, or say at half the usual rate?—Yes.

\* \* \* \* \*

288. *Sir Zulfiqar Ali Khan*: With regard to the women voters, do I understand that these Muslim ladies who are in *purdah* will, some of them, get the right to vote?—Yes. They have the right to vote.

289. Do you think that these ladies as they are accustomed to remain in *purdah* would have the courage to go to the polling stations and hustle their way through the crowd and then record their vote?—They would not like it.

290. Then the other point that I want to know is this. Has any candidate, or candidates, standing for election any chance of approaching these ladies for the



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[Continued.]

sake of canvassing?—Not *purdah* ladies amongst Muhammadans.

291. Would a husband or a brother like a stranger going to a woman for canvassing?—They would feel awkward.

292. Therefore, do you not think that the loss of such votes to the Muhammadan community would be a serious one?—I would not like to express any opinion.

293. Then the other point I want to be elaborated is this. I am not wanting any expression of opinion on your part, but I want to help you in the formation of your opinion. You know that the advancement of a country, the political advancement of a country, depends on the harmony prevailing between the different elements of the population. Could you please tell me from your experience of the last two or three elections whether even among the Muhammadan community there has been an abnormal amount of bitterness created between the different candidates belonging to the same religion and community?—Well, in rural areas there is sometimes bitterness, a good deal of it.

294. *The Chairman*: Bitterness between the rival candidates for the same communal constituency?—Yes.

295. I think the Nawab Saheb's question was whether you feel the bitterness was abnormal. Of course it is difficult to have a standard. Let us put it this way. You think sometimes it has been serious?—No, I do not think so.

296. *Sir Zulfiqar Ali Khan*: I want to know whether it has led to friction and bitterness or to harmonious relations?—I do not think it has made much difference.

297. You think two candidates standing in rivalry with one another would have the same friendly relations?—No, the relations are strained.

298. That is what I wanted to know. Do you not think, Nawab Saheb, when this is the case between the candidates of one religion and community, when there are joint electorates the relations between Hindus and Muhammadans will become more strained?—Between the candidates, yes.

\* \* \* \* \*

300. *Sir Zulfiqar Ali Khan*: With regard to conveyance for voters, you think that a rich candidate may score against a poor one simply because the former can provide conveyances to his voters. But do you not think that during these elections as a matter of fact, in spite of the rules and regulations, the rich candidates have been able to provide conveyances for voters?—Yes, but it would make matters much worse.

*Sir Zulfiqar Ali Khan*: It is a mere matter of degree?

\* \* \* \* \*

*Dr. Suhrawardy*: I wanted to know whether there is any provision in the Punjab Electoral Rules preventing a candidate from having a loan of motor-cars.

*The Chairman*: Is there any objection to his orrowing from his friends?

*Dr. Narang*: No objection.

301. *Dr. Suhrawardy*: You mentioned Diwan Chaman Lal and Lala Lajpat Rai as typical of good candidates?—I did not say so. I did not want to express any opinion one way or the other.

302. But you mentioned those names?—Yes.

303. I wanted to find out whether it is a fact that Lala Lajpat Rai was opposed by Diwan Chaman Lal?—Yes.

304. Could you tell the Conference if there was any outstanding difference between the election manifesto of the two candidates, or whether it was merely personal or communal?—I think one represented the Congress party and the other represented the Hindu Sabha. But I am not sure.

305. And then it has been suggested to you by *Dr. Narang* that the abolition of the distinction between two separate electorates would lead to a reduction of the size of the constituencies. Would

you kindly tell us which would be more effective for the purpose of reducing the size of a constituency, whether the abolition of separate electorates, or the abolition of the distinction between urban and rural constituencies? Which in your opinion would be more effective for the purpose?—Both.

306. I know, but which would be more effective?—I could not tell you off-hand until I went through the population figures of the various districts.

307. *The Chairman* (to *Dr. Suhrawardy*): What do you mean by abolition of the distinction between urban and rural constituencies?

*Dr. Suhrawardy*: It was suggested that if the communal electorates were abolished it would facilitate the reduction of the size of constituencies, because one of the objections mentioned by the witness was that there would not be sufficient voters if the territorial size of the constituencies is reduced. And *Dr. Narang* suggested that if the distinction between the Hindus and Mussalmans, or rather separate electorates is reduced, then it would facilitate reduction in the size of constituencies. My question is if the distinction between urban and rural constituencies is abolished, would it not be more effective for that purpose?

*Dr. Narang*: No.

*The Chairman*: I do not understand the suggestion of abolishing the distinction between rural and urban constituencies. Does it mean that you should not treat a town of ten thousand inhabitants as different from the country-side?

*Dr. Suhrawardy*: Now, for example, *Dr. Narang*, if I am not mistaken, represents an urban constituency, and his constituency is scattered. He has to go to town A, B, C and so on for the purpose of his election. But if the distinction between the urban and rural areas is abolished and the whole area divided into smaller constituencies, it would be more effective for the purpose.

*The Chairman*: You mean the actual distance between parts of the same constituency will be shortened?

308. *Dr. Suhrawardy*: Yes. (To the Witness): I want to ask you about the returning officers. Who are the returning officers in your province? Are they district officers, broadly speaking?—For the Assembly generally the commissioners of divisions...

309. I am asking about the council?—The others are extra assistant commissioners, deputy commissioners in some places, revenue assistants, and so on.

310. When they are employed for the purpose of performing the duties of returning officers, can they devote their undivided and exclusive attention to the work, or have they to carry on their duties as district officers as well?—Yes, they have to carry on their duties.

311. Have there been cases in your province of improper rejection of nomination papers on the ground of mistakes made by returning officers?—Yes.

312. Is it not a fact that the returning officers have generally to depend upon their clerks and assistants for the purpose of interpretation of the rules?—No; certainly not.

313. That is not your experience?—No.

314. As regards female voters, is it not a fact that Muhammadan women do not like the idea of being dragged into court on a charge of false personation? Nobody would.

315. Is it not a fact that sometimes the candidates or their agents waste the time of their rival by challenging the identity of the voters who appear before them?—Yes, sometimes.

316. The point is this. When a voter is challenged, his thumb impression is taken. Is that not a fact?—When he is given a ballot paper.

317. And a Muhammadan woman is most reluctant to allow her thumb impression to be taken by strangers?—I think so.

318. With reference to a question put to you by *Major Attlee* as regards the paucity of election

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petitions, he suggested that it is probably due to the fact that the defeated candidate and the successful candidate sail in the same boat so far as infringement of the rules is concerned. Is there such a thing as deposit of a thousand rupees which a defeated candidate has to make if he has to submit an election petition?—It is so.

319. And similarly, if a recrimination petition is filed, the successful candidate also has to do it?—I do not know. It is not in the rules.

320. As regards corrupt practice in the shape of payment of money to voters or holding out inducements, in your province have cases occurred where candidates have made contributions to some charit-

able institutions or held out promises of building a mosque or temple?—Not to my knowledge.

321. I wanted to know whether there was that kind of inducement?—No; I do not think so.

322. At the top of page 29 I find it is stated that the lowest expenditure incurred by a candidate was Rs. 1-2-9?—Yes.

323. Does this refer to contested elections?—No.

324. *Captain Sikandar Hayat Khan*: I wanted to ask you about postal constituencies, or voting by post. Were they working satisfactorily?—Yes.

*The Chairman*: I wish to thank you, sir, on behalf of the Conference for your extremely useful evidence.

### Memorandum from the Judges of the High Court of Judicature at Lahore.

In January last, the Honble. Judges of the High Court at Lahore were asked to submit a note embodying their considered opinion as to the effect of the Reforms on the working of the department of Law and Justice, and in particular an account of the manner in which the working of the Reformed Constitution had acted on the processes of judicial administration. This note was submitted to the local Government with a view to its being embodied in the provincial case which was to be laid before the Indian Statutory Commission.

2. This is the only invitation which has been directly addressed to the High Court to submit its views on the subjects falling within the scope of the Indian Statutory Commission's inquiry. It was limited to the effect of the measure of Reforms already granted and gave no opportunity for an expression of opinion on future changes in the administration. On the 8th March, 1928, however, a public notification was issued inviting the submission of written statements or memoranda both from official and non-official sources on any of the subjects falling within the limits of the Commission's inquiry. These include the classification of subjects as central and provincial, the Courts and the Judiciary, justice in British India and the question of provincial autonomy. As it has been usual in the past for Government to address the Honourable Judges direct on any questions affecting their position or the administration of justice, no action was taken at the time by them on this public invitation.

3. The members of the Indian Statutory Commission are now on the point of returning to India to undertake their inquiry. It has in the meantime been brought to the notice of the Judges that the subject of the Courts and the Judiciary has already received consideration elsewhere; and a memorandum published in the public press has been submitted to the Commission by the Associated Chambers of Commerce of India and Ceylon, proposing that all High Courts in India should be under the Government of India, both for administration and finance. This being so, the Honble. Judges consider it necessary to submit to the Commission their own views on the future relations of the High Court with Government.

4. The High Court of Judicature at Lahore was constituted on the 1st April, 1919, by Letters Patent of His Majesty the King Emperor issued under the Government of India Act. Before that date there existed a Chief Court constituted under an Act of the Indian Legislature. The position of the High Court in relation to the Government is regulated in many ways by the Government of India Act, and in some details by the Letters Patent themselves. By the Letters Patent, the Honble. the Chief Justice has power to make clerical appointments within the High Court subject to the control of the local Government, but he usually delegates this power to the senior Puisne Judge. By section 107 of the Government of India Act, the High Court has superin-

tendence over subordinate Courts, subject to similar control by the local Government. The powers of the High Court in respect of subordinate Courts are further defined in the Punjab Courts Act. This Act was originally enacted in the days of the Punjab Chief Court; and although it has been subsequently amended in detail, it may be said that the High Court has inherited the machinery designed to regulate the relations of the Chief Court with the local Government in respect of the subordinate Courts and Judiciary.

5. Permanent Judges of the Court are appointed by His Majesty the King; Additional Judges by the Governor-General in Council; and Acting Judges by the local Government. The terms of their appointment are regulated by rules made by the Secretary of State. Other administrative matters affecting the High Court are dealt with by the Home Department of the local Government, while it is understood that important matters directly affecting the Court receive the personal attention of His Excellency the Governor himself. The financial side of such matters is under the control of the Finance Department. Both the Home and the Finance Departments are at present under the control of members of the Executive Council, as reserved subjects. Matters affecting subordinate Courts are treated in the same way.

6. Although these subjects are still reserved, they are liable to discussion in the provincial Legislative Council, provided that they can be introduced without reference to the conduct of the Courts in their judicial capacity. The most usual methods of introducing them are by interpellations as to the appointment of the judiciary and of its establishment, or by moving reductions in the grants for the administration of law and justice on the same points. It may also happen that the local Government, before proceeding with important proposals affecting that department, may sound the views of the Council by a debate on the subject. Specific cases have already been cited in the note submitted on the effect of the Reforms. In this way the Judges in their administrative functions find their proposals and actions exposed to public debate and criticism in the Legislative Council.

7. The relations of the High Court with the local Government as at present constituted have been amicable, and on most subjects both bodies have managed to work in agreement. So far, serious disagreement with the Legislative Council has also been avoided. At the same time, the tone of the criticisms and debates has occasionally been such as to arouse some disquietude in the minds of the Judges with regard to the future position of the High Court. In the event of greater power being granted to the Council and the Ministers, they cannot view with equanimity the possibility of the Council adopting measures designed to harass the Judges in their administrative functions or calculated to lower the efficiency of the judiciary.

8. It has always been a cardinal principle of the administration of British justice that the Courts

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should as far as possible be kept aloof from political strife and exigencies. When the Reforms are extended in British India, there will probably arise many questions of importance affecting the constitution and the rights and liberties of the people which will require determination by the highest tribunals of the land. Political parties or political leaders may bring their disputes before the Courts of law, and the decisions of the Courts may not be liked by them. It is essential to the independence and impartial administration of justice that the judicial department should be removed from the influence of the Legislative Council and should not be subjected to attacks by its members. Whatever measures may be designed to secure that the distinction between the administrative and judicial functions of the Judges should not be confused, and that the Judges should not be hampered in the latter by their executive subordination to local Government or the Council, there are indications of the danger of their judicial functions being indirectly hampered by purely party considerations if further powers are granted to the Legislative Council over the judicial department.

9. The Judges consider that it is of the utmost importance that steps should be taken at this stage to secure that the Courts shall not in any way be subject to party influences, political or personal. Powers of appointment, in particular, are liable to affect the independence and efficiency of the judiciary. It will be admitted that a Judge whose appointment rests, not upon his technical qualifications but upon political or party considerations, cannot be wholly independent in the discharge of his judicial duties; and he is apt to mould his views to suit the wishes or the policy of the party or the persons to whom he owes his office. Financial pressure may also be used to indicate displeasure with the independence of the judiciary.

10. The best practicable solution of the problem of securing the judiciary from party interference

appears to the Honble. Judges to lie in the suggestion already put forward by the Associated Chambers of Commerce, viz. that all High Courts in India should be placed under the Government of India both for administrative and financial purposes. They are aware that the proposal is not ideal, and is open to certain objections. For example, there will be some loss of personal contact and consultation; but it will still be open to the Government of India to consult the Governors of the provinces concerned. The Judges are of opinion that such disadvantages are small compared with the paramount advantage of removing the Courts from the sphere of local influences.

10. There may also be some difficulty in allotting control over the subordinate Courts of the province if the High Courts are placed under the Government of India. This is a question on which the Judges are not in a position to give definite views until they are aware of the measures of control proposed to be granted to the local Government of the future; but they would invite attention to the example of Bengal, where the subordinate Courts are already under the administrative control of the local Government, while the High Court is under the central Government.

11. The point which the Judges wish to stress is that with any growth of provincial autonomy, steps must be simultaneously taken to guard the independence of the Courts. It is to be observed that in Canada, a self-governing dominion which may provide an example in the advance towards dominion status, the Judges of the Provincial Courts are appointed and paid by the Central Government, and are removable only by the Governor-General on address of both Houses (British North America Act, 1867, sections 96 and 100). It is understood that the experiment has proved successful; whereas in the United States of America, the placing of the Courts, except the Supreme Court, under the local administrations has not been so successful in keeping them away from local influences.

## KARACHI. \*

Dated, 12th November, 1928.

## PRESENT :

ALL MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND), AND OF THE BOMBAY PROVINCIAL COMMITTEE.

Mr. E. E. TURNER, Deputy Inspector-General of Police, Sind.

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59. *The Chairman* : Mr. Turner, are you Deputy Inspector-General of Police for Sind?—Yes.
60. In what year did you join the Indian Police service?—1902.
61. That would be, no doubt, joining the All-India service?—Yes, from Home.
62. Were you posted to the Bombay Presidency from the beginning of your service out here?—Yes.
63. I do not want to go into minute details, but has all your service been in Sind or have you been in other parts of the Bombay Presidency too?—I have done five years on and off in Sind, and the rest in different parts of the Bombay Presidency.
64. Let us just understand the organisation here. We have heard already, I may say, a witness at Poona, Mr. Griffith, the Inspector-General of Police, who gave us a general account; but I gather that you, as Deputy Inspector-General of Police for Sind, hold a rather special position in view of the special relation of Sind to the whole of the Presidency?—That is so, yes.
65. What is there special about it as distinguished from that of others who are the immediate lieutenants of the Inspector-General?—The Deputy Inspector-General of Police in Sind can be delegated certain powers of an Inspector-General, in view of the fact that he is in closer touch with the head of the local administration; that is, the commissioner.
66. Let us be quite clear about this. Do you in the ordinary course report to and get your instructions from the Inspector-General at Bombay, or are you really a separate police administration?—It is practically a separate police administration. The Inspector-General has no authority with regard to the police in Sind; he is purely an advisory officer for Sind.
67. Let us put it by way of contrast. My recollection is that at Poona we were told that in the Presidency proper (leaving out Sind) there were under the Inspector-General two Deputy Inspectors-General?—Two Range Deputy Inspectors-General.
68. One in the southern and the other in the northern part?—Yes.
69. Is their relation to the Inspector-General—to Mr. Griffith—different from your relation to him?—Yes.
70. You being more completely independent?—I am directly under the Commissioner in Sind, who is really the head of the Police department in Sind.
71. You see, gentlemen, this really does illustrate the point made by the previous deputation, that Sind is in ordinary administration treated as something rather apart from the rest of the Presidency. Let us have a word about your own subordinates. How do you organise Sind from a police point of view? How is it divided up?—Sind is divided up into seven districts, but there are ten charges.
72. Do you mean by districts the ordinary districts for civil administration, or do you mean police districts?—I am referring to ordinary districts.
73. We know there are seven districts, but from the police point of view how do you divide it up?—There are seven districts, each with a district superintendent of police. Karachi district has two district superintendents of police, one for Karachi headquarters—that is to say the municipal limit of Karachi—and one for the rest of Karachi district. In addition to that there is one district superintendent of police for the railway, and one for the Criminal Investigation Department.
74. Have you got, then, a separate Criminal Investigation Department for Sind?—We have.
75. That, again, shows how Sind is rather a thing apart. Then with regard to the recruitment of the rank and file, we were told, I remember, in Poona by Mr. Griffith that in the southern part of the Presidency, the Presidency “properly so called,” recruitment was done in the district by the district superintendent of police?—A similar procedure is followed in Sind.
76. Do you draw a distinction in this part of the Presidency between the armed and the unarmed police?—Yes.
77. I dare say you know that that differs, apparently, in different parts of India. For example, in the Punjab, where some of us have just been, they pass the whole of their recruits through the armed training, but here you draw a distinction between armed and unarmed, do you?—Yes.
78. From what section of the population here in Sind do you draw your rank and file for the most part?—It varies. For the armed police we have to recruit mainly from the Punjab, the armed foot police. For the unarmed foot police we have many Punjabi recruits, together with Sindhis. For the mounted police we try, as far as possible, to recruit from Sindhis.
79. I think this is the first time I have heard a witness speak about the mounted police. What are they mounted on?—The majority on horses, and a certain number on camels.
80. Is that because of the distances that they may be called upon to go?—Yes.
81. For the most part are the rank and file of your force literate or illiterate?—In the armed police they are nearly all illiterate. In the unarmed police they have to possess an educational qualification, which is Fourth Standard vernacular.
82. Do you consider that your policeman, because he has passed the Fourth Standard, is reasonably competent to write and read?—He can, I think, read and write an ordinary report.
83. There are three questions, and I think only three, which seem to emerge, and I would like to ask you a question about them before others question you. The first question is this. I would like to have your candid opinion and view about the suggestions which are sometimes made of the prevalence of corruption in the police force, that is to say, the receiving of money either as a reward for letting people off, or the receiving of money otherwise than in the course of justice as far as the police are concerned. What do you say is the state of affairs as you know it in Sind?—Corruption undoubtedly does exist, and I have not yet formed a definite opinion as to whether it has increased in recent years or decreased, but I think I can say that more publicity is given to it in these days, more publicity in the press, and possibly there may be more false accusations.
84. I do not want to go into great detail about it, but I should just like to know, have cases arisen during your administration where it has been possible to deal with a proved case with proper severity?—During the last four years on an average seven men have been dealt with per year.
85. The second of the three questions I thought we might put to you from the Chair is a very difficult one, concerned with the subject of the proposed

\* For evidence taken at Poona, see pages 156.



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Mr. E. E. TURNER.

[Continued.]

transfer of Law and Order so as to make it one of the subjects of which a minister responsible to the legislature would be in charge.—I think it would be a very dangerous experiment, and would certainly, in my opinion, be detrimental both to efficiency and discipline.

86. You see, the most cautious way is not in all circumstances the wisest one. It depends. I do not want you to give your answer merely because you are attached to the present way of doing it. What is the danger which you, with your knowledge of the police force, think is the one to be considered by the Conference?—In connection with transfer?

87. Yes.—I think that if the police were placed in the hands of a minister who owed his position to an electorate, he would certainly be under the influence of his supporters, and possibly would not be in a position to take an unbiased view of matters. That is my considered opinion.

88. Of course, you realise that in several parts of India the department of Law and Order is administered, and I believe very well administered, in the hands of an Indian Member of an Executive Council?—Yes.

89. I gather from what you say that your point has nothing to do with whether it is an Indian Member of Council or whether it is a British Member of Council. Your point has to do with the influence which is likely, you think, to be exerted by popular representation?—That is so.

90. How does it stand at present as regards your superior police officials in Sind? Have you got in your organisation some officers who are Indian officers?—We have at present two Indian officers.

91. When you say that, do you mean district superintendents?—We have one district superintendent of police and one assistant superintendent of police.

92. My third question is this. Never mind about the other arguments, which do not touch you, but so far as regards your own department, the police department of Sind, would it make any material difference, as far as you can see, whether Sind was more completely separated from Bombay and perhaps made a separate province?—From a police point of view I can see no advantage to be obtained from the separation.

93. But is there, as far as the police point of view is concerned, any disadvantage?—There would be a disadvantage from separation.

94. Why?—Well, the only disadvantage that I can see would be that we should have a very small cadre. We should only have fourteen officers with one superior appointment to look forward to.

95. You call it small. There are two in each district?—I meant, one appointment to Deputy Inspector-General, ten appointments to district superintendent of police, and three assistant superintendents of police.

96. In practice, do the police officers who serve in Sind—not only yourself but your subordinates—in the course of their career see service in other parts of the Presidency?—Yes.

97. Do you think that is an advantage?—I think it is a distinct advantage. If you had a small cadre with three or four inefficient officers it would be very difficult to get rid of them.

98. Lord Burnham: In the police service, do you think it necessary or not for its efficiency that there should be a European element, as at present, in the higher ranks?—I think it is essential that there should be.

99. Do you believe that the 50-50 proportion which I believe is fixed under the Lee Report suffices for that purpose?—Yes.

100. You think you are getting enough?—Yes, I think so.

101. Colonel Lane-Fox: In your position, supposing there was a bad trouble and you wanted the assistance of troops, who would be the person to call them in? Would you go direct to the commissioner?—Ordinarily in case of trouble in a

district the district superintendent of police would apply for troops through the district magistrate. In case of very sudden emergency he would possibly be justified in calling them in if there was no high magistrate present.

102. Then it would be your duty to see that they were supplied and organised: is that where you come in?—It would be the duty of the police to report when the matter is out of hand, if the situation is out of hand.

103. But you said the district superintendent would apply direct to the district magistrate?—He would ask for troops through the district magistrate.

104. He would not have to come to you; that is what I want to get at?—No.

105. Lord Strathcona: Following up Colonel Lane-Fox's question, if you have trouble in Karachi do you apply yourself? If you apply for troops, to whom do you apply?—Are you referring to the executive officer? I am not an executive officer; I am an administrative officer for Sind.

106. Take the executive officer in Karachi. If he wants the assistance of troops, to whom does he apply?—He would ask the district magistrate.

107. And to whom does the district magistrate apply?—He would apply to the officer commanding the station.

108. The Chairman: Of course, you are not an executive officer in the same sense as, for instance, the district magistrate or the district superintendent of police is?—That is so.

109. If trouble arises in his area it is he who has got to see what is to be done?—That is so.

110. Rao Saheb Patil: You have said that the subject of Law and Order should not be a transferred subject. Supposing it is made so, will you kindly suggest any safeguards in the interests of the State?—I am not in a position to give an opinion off-hand on that point.

111. Supposing Law and Order is a reserved subject, and it is in charge of the executive council, then you have no objection if the Executive Councillor happens to be an Indian?—The Executive Councillor being a permanent government official, do you mean?

112. Yes.—I would have no objection in that case, no.

113. Then if the Minister is given the power of managing this subject of Law and Order, and if he happens to be an impartial man, why should there be any objection to transferring that subject to popular control?—My point is this, that I would not object to Law and Order being transferred to an Indian who holds a government appointment as a Councillor, but I think that a Minister who is elected and depends for his position as a Minister on his constituency, would be bound to be influenced by his supporters in some way.

114. To push the argument to its logical conclusion, it would come to this, that this subject, according to you, will never be a transferred subject?—No, I do not say that at all. I am talking of the present situation. I cannot say what will be the situation ten years hence.

115. In a responsible government you have to give chances or opportunities to the Minister to show whether he is in a position to manage his subjects properly or not?—I would not give a chance so far as Law and Order is concerned.

116. Under what conditions would you hand over?—I would not hand over in any circumstances at present.

117. Syed Miran Muhammad Shah: You have just stated that you recruit the lower grades from the Punjab?—Mainly.

118. You also said that they are illiterate mostly?—Yes, for the armed police.

119. I want to know your reasons for recruiting from the Punjab? Do not you get qualified people in Sind?—Sindhis will not enlist in the armed police in any numbers.

120. They are unwilling to come forward and be recruited?—Exactly.

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[Continued.]

121. Do you recruit on communal grounds also, so as to give a particular community a share in your department?—No, not in the executive force; only in the clerical branch.

122. What are the requisites for a candidate for recruitment to a post in the police? Take the post of sub-inspector as an example. What are the requisite qualifications?—He must be educationally qualified; that is to say, he must have passed matriculation or the school leaving examination, he must be of a certain physical standard, and he must be of good character.

123. That is all?—Those are the main qualifications.

124. Do you also take account of their traditional qualifications, the traditions of their family and the stock from which they are descended?—That might have some influence.

125. Do not you think these traditional and family qualifications are necessary in the case of riots or robberies or dacoities committed from the western side of Sind or from the Rajputana side, when a spirit of adventure and bravery and manhood are required?—I do not quite follow the question.

126. I want to call your attention to the peculiarities of Sind. Sind is sometimes attacked by Baluchis from the north-west side and sometimes by Bhils from the Rajputana side. Taking these circumstances into consideration, do not you at the time of recruitment take into consideration the family traditions of a recruit, so that he may be useful in dealing with such matters?—I have said that the traditions of a candidate's family have a certain amount of influence on his selection.

127. *Sir Arthur Froom*: Do you consider the pay of the lower ranks of your police force (police constables and sepoys) is adequate?—I think it is.

128. You think they are on a properly-paid basis?—There is no complaint about the inadequacy of pay.

129. My question arises out of one put by the Chairman. You told the Chairman that unfortunately there was a certain amount of corruption. Would that be because they considered they were inadequately paid, or because they regard the police service as being in some respects an opportunity for making money?—I consider that in certain cases they do regard service in police as an opportunity of making money, but only in a certain small percentage of cases.

130. I am not suggesting anything against the police force as a whole, but you do not think it is due to the constables and police sepoys being unable to make both ends meet?—I do not think so.

131. Just one other question, in connection with answers you gave to Colonel Lane-Fox and Lord Strathcona, as to what happens when affairs get out of the control of the police, and the police officer applies to the magistrate for military help. Has that happened frequently in the Bombay presidency or in Sind in recent years?—It has not happened in Sind of recent years to my knowledge.

132. And in the Bombay presidency?—Not within recent years, so far as I know.

133. When it does happen, does the police officer have to make a report as to why he wanted troops?—He would usually, in the ordinary course of events. He would have to state his reasons.

134. *The Chairman*: Do you mean beforehand or afterwards?

*Sir Arthur Froom*: Afterwards?—He would certainly have to afterwards. Afterwards he certainly has to make a report on the whole occurrence, and the circumstances in which troops were called in.

135. Presumably the report goes through the district magistrate and possibly up to Army Headquarters. Does the report go in that way?—It would go through the district magistrate to Government, through the commissioner.

136. The reason I ask these questions is this. The Army is a reserved central subject, and Law and

Order is a reserved provincial subject. If Law and Order was transferred, do you think any difficulties would arise between the police, as a transferred provincial department, and the Army, which is under the Central Government?—I am not in a position to give any opinion on that subject, but I should think that possibly difficulties might arise.

137. *Sir Hari Singh Gour*: You said if Law and Order was transferred to a minister there would be a danger of loss of efficiency and discipline. Is that your apprehension or a deduction based on experience?—It is my apprehension.

138. Do you know of any case in which a minister of your province, charged with the departments with which they have been entrusted for the last eight years, has given a biased judgment on any point?—No.

139. What reason have you to believe that if ministers have acquitted themselves as well as they have done in the departments so far transferred, they would not do equally well in the department of Law and Order if it was transferred?—It is my apprehension only.

140. Fear of the unseen?—Exactly.

141. Just as a child fears the dark, so you fear something which may occur in the future, that is all?—Yes.

142. With regard to the police force, do you think that the detection of crime in Sind is sufficiently large?—It could be improved.

143. Do not you think there has been great popular dissatisfaction against the management of the police here in Sind in recent years?—On the part of whom?

144. On the part of the public?—There has been a great demand for more police.

*The Chairman*: Will you help me a little? Evidently you have something in mind. What sort of popular dissatisfaction do you mean?

145. *Sir Hari Singh Gour*: I am just coming to that. Have you heard of the Rajputanas (Muhammadans) coming into Larkana?—I have heard of them.

146. Did not they come into Larkana and loot the city in broad daylight, murdering large numbers of Hindus and plundering in broad daylight?—I do not know the details; I was not here.

147. *Sir Hari Singh Gour*: And not a single man was brought to book for it?

*The Chairman*: I gather from you, *Sir Hari Singh Gour*, that your view is that there was extremely strong popular feeling about the way the thing was managed? If it is a fact that there is a very strong popular feeling and the demand that the police should do a particular thing, one can understand this gentleman's anxiety if the authorities who have to decide what the police should do depend on popular feeling.

*Sir Hari Singh Gour*: The popular feeling is in regard to the non-detection of crime, of a lot of serious crime, in this province, and the Larkana case is a case in point. I mention it because it is a case in point, where the police have failed to detect a very large number of serious crimes committed in this province, so much so that a serious crime committed by a band of a thousand people who looted a whole city in broad daylight and killed numbers of people in broad daylight did not lead to the conviction of anybody.

*The Witness*: The case was tried and they were all acquitted.

148. They were all acquitted, and consequently not one single man was brought to book, on the ground of insufficient identification?—Yes.

149. *The Chairman*: I do not follow this. It is not suggested that if there was a change in the administration of the police, people would be found to identify more freely?

*Sir Hari Singh Gour*: No, the point is that so far as the popular feeling against the police is concerned there might be an improvement in police

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administration if it was placed in the hands of a responsible minister.

150. *The Chairman*: That is quite arguable. It means the suggestion is not that the transfer should take place on the ground that the time has come for an extension of self-government, but that the transfer should take place because the present police force is inefficient, and by a change would be made more efficient?

*Sir Hari Singh Gour*: Yes.

*Khan Bahadur S. N. Bhutto*: I understand the witness has no knowledge of this matter, and my friend Sir Hari Singh Gour is putting questions which are not correct. He ought to ask if the witness knows about it.

151. *The Chairman*: I do not pay any attention to statements of fact in a question, whoever puts it. They have no effect on my mind at all. I am interested only in the answer coming from a witness who knows the circumstances. (To the Witness): Were you in charge at the time?—No.

*The Chairman*: Then I think it is better to say so.

152. *Sir Hari Singh Gour*: What percentage of crime reported is ultimately punished in this province?—I cannot say definitely. Roughly about 40 per cent.

153. *Sir Zulfiqar Ali Khan*: In answer to Sir Hari Singh Gour you said your apprehension was that if Law and Order was not reserved, but was transferred under a minister, the efficiency of the police would go?—I did not say it would go; I said it would probably be detrimental to the efficiency of the force.

\* \* \* \* \*

155. I want to know, having regard to the present

position between the communities, whether you think it would be in the interests of public welfare and security of life and property to transfer this subject?—No, it would not.

156. *Sardar Shivdev Singh Uberoi*: May I know whether the recruitment of the service for Sind is separate from that of the Presidency?—Yes.

157. You have, of course, superintendents in charge of districts, and you have assistant superintendents and deputy superintendents?—Yes.

158. May I know how many of the deputy superintendents and assistant superintendents are Indians?—With one exception, all our deputy superintendents are Indians at present.

159. They come both from the Hindu and Muhammadan communities?—Yes.

160. In your opinion, are the deputy superintendents working quite satisfactorily in their position of responsibility?—Yes.

161. *The Chairman*: Will you not ask about the district superintendents also?

*Sardar Shivdev Singh*: I understood there was no Indian of that rank.

*The Witness*: There is one.

162. He should be included in my question. Are he and the deputy superintendents working satisfactorily?—Yes.

163. With regard to corruption, is it at all in the upper ranks or only among the rank and file? Does it apply to inspectors or deputy superintendents, or only in the lower ranks to head constables and sepoy?—In the cases which I have seen in the last four years, the highest officer who has been punished was a sub-inspector.

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## KARACHI.

Dated, 13th November, 1928.

### PRESENT:

ALL THE MEMBERS OF THE COMMISSION OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND, THE HONBLE. RAJA NAWAB ALI KHAN, NAWAB SIR ZULFIQAR ALI KHAN, AND THE HONBLE. SARDAR BAHADUR SHIVDEV SINGH UBEROI), AND OF THE BOMBAY PROVINCIAL COMMITTEE.

**Mr. C. S. C. HARRISON, C.I.E., Chief Engineer, Lloyd Barrage and Canals Construction, Sukkur.**

1. *The Chairman*: I think you are Mr. C. S. C. Harrison?—Yes.

2. And you are the Chief Engineer of the Sukkur Barrage and Canals?—Yes.

3. And I think have been so since July, 1923?—Yes, since its commencement.

\* \* \* \* \*

5. Many of us had the opportunity of seeing the Sukkur Barrage the other day, when you and your colleagues showed us that very remarkable work. I would just like to ask one or two questions which deal not with the engineering side, but with those aspects of it which touch the constitutional problem. As we saw, at present the scheme is in the stage of construction?—Yes.

6. Is it possible to say without inconvenience when you expect that the construction work will be finished?—The construction will be finished, we hope, in 1934, but we hope to get irrigation started in 1932, that is to say, the outlying portions will take another two years to finish off.

7. When you speak of having completed construction in 1934, does that include the making of the canals as well as the building of the barrage?—Yes, complete.

8. I do not want to trouble you with the financial

side, but I shall be glad to have one large figure if you can give it. By the time the construction work is finished in 1934, in round figures what is the sort of outlay of capital which will have been incurred?—We expect to spend, according to the revised figures which I have given to Government, 20.03 crores—2,003 lakhs—which is 9 per cent. more than the original estimate.

9. Put it in millions of pounds English?—Round about £14,000,000 sterling.

10. I think the money has been borrowed, has it not, by the Government of India and then has been lent to the Government of Bombay?—That is so, at a slightly higher rate of interest than they have to pay in the open market.

11. So of course, while there is a great debt thus incurred, it is one of those debts which, as we hope, is represented by an asset of value, and, we hope, of increasing value?—Yes, decidedly.

12. Just tell me this from the point of view of the department of Irrigation. Does a great deal depend after the construction is over on the businesslike skill with which the administration of the water is carried out?—Everything depends upon that. The whole financial success of the scheme, between ruin and success, depends on whether we administer it properly or not.

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[Continued.]

13. \* \* \* One would have supposed that there were two very essential things in the future; one would be the efficient looking after the canals, the watercourses, and so on, and the other would be the strict and businesslike administration of the sale of the water?—That is so—efficient and impartial distribution of the water, and efficient maintenance of the canals.

14. What is the system which is followed at present? I am not talking about a future constitutional change when you have finished the period of actual engineering construction. Does the Irrigation department keep one set of people to look after the state of the works, and is the collection of water rates in the hands of another set of people, or are both halves of the future administration under the same authority?—Sind differs from Bombay-Deccan in this way, that the Irrigation department are merely the suppliers of the water; that is to say, we have one staff responsible for the maintenance of the canals and the distribution of the water on to the fields, and complaints that come from the zamindars come direct to us, or, if they think they have not had redress they come through the Revenue department and we look into those complaints and remedy water defects or any other points that arise. After that, the actual collection of the revenue is done by the Revenue department, unlike the Bombay-Deccan. When I say the collection, I mean the preparation of assessment papers and the final collection of the money. In the Bombay-Deccan the Irrigation staff prepare the assessment papers and hand these over in detail to the Revenue department, who make the actual monetary collections.

15. Then what you have described as the Deccan method would apply, I suppose, to the Lloyd Dam at Bhatgar which we saw the other day?—Yes, that applies there. I may mention that it is still under consideration as to whether we will adopt a new method for Sind based on the Deccan method, or whether we will have a combination of both, or whether we will adhere to the present regime. There are points in favour of each method.

16. I would like you to develop in another sentence or two, if you would, the striking observation you made when you said that when the construction was finished the whole difference, I think you said, between ruin and success—Between success and failure is better. I said ruin and success.

17. —depends on the strictness and efficiency and impartiality of the subsequent administration?—That is so, and if I may mention it, it is a very difficult thing in a country like Sind, far more difficult than it is in the Bombay-Deccan. In the Bombay-Deccan we deal with rather small men; they are not very big landholders considered as individual men, whereas in Sind they are men with very considerable power and very large holdings.

18. You mean the Sind zamindars?—The Sind zamindars, yes. Of course, the majority of the zamindars in Sind, contrary to the general idea, are not the great landholders. There are a greater number of small holders than there are big holders, but there are a sufficient number of really big zamindars to have a very great moral effect on the lower members of the Irrigation staff, and therefore the control has to be looked into with very much greater detail in Sind from that point of view—that is to say, to uphold strict impartiality.

19. Is there going to be, as an outcome of the Sukkur scheme, the disposal of Crown land at the increased price which water facilities would justify?—Well, we hope it will be an increased price. We have got roughly in round figures  $1\frac{1}{2}$  million acres of Crown lands at our disposal. Out of that, Government are committed to  $3\frac{1}{2}$  lakhs, or 350,000 acres, against which will be set the claims of various rights. One of the rights is fallow forfeit; that is to say, in Sind we have certain fallow rules; land lies fallow for so many years out of so many, and Government have laid down certain periods under which they may not exceed their fallows, and if they exceed those

fallows then the zamindar has to pay the rates whether he irrigates or not, but if he fails to pay those rates then the land is forfeited to Government. Well, during the course of years, a large number of years, a certain amount of land has been fallow forfeited, that is, under the fallow rules, and that, according to the zamindars' claims, represents something like 470,000 acres; but after looking into the matter, Government have decided that they will limit their commitments to  $3\frac{1}{2}$  lakhs, that is 350,000 acres of land to be given out at concession rates. It was originally intended that this 350,000 acres, or most of it, should be given out to turn artisans on the land, artisans who had failed. There are many dying industries in Sind, and the idea was to put unemployed artisans on the land at concession rates. They are very poor. But with this big demand for fallow forfeit, Government realised that they could not mortgage the whole of their resources in land, and they therefore decided that the total grant that Government would consider at concession rates would not exceed that involved by giving out 350,000 acres; so that we have the fallow forfeit claims merged into the 350,000 acres.

20. Your point is, I gather, that so far as regards that portion of the total area for fallow forfeiture, really the land is earmarked?—Yes.

21. And with regard to the balance, is it hoped to be able to dispose of it at what may be the proper and full price?—That is so. We hope to sell it by auction if it is practicable.

22. Without going into the finance in further detail, just tell me this. According to the present scheme, if by means of strict and efficient administration your hopes come true, what is the period of years which it is calculated will elapse before you have paid off your borrowing?—In the twelfth year after completion we should be in the state of having overtaken the accumulated interest accruing annually and starting to pay our true interest; that is to say, we shall be more than keeping pace with arrears of interest, and shall be starting to give a direct return (over 6 per cent.) on our capital.

23. Then that means to say if that calculation works out in practice right, beginning with the twelfth year or thirteenth year you calculate that your revenue from the work will be not only sufficient to keep down the interest and sinking fund, but also to create an income?—That is so, direct revenue to Government.

24. And how many years after that do you hope by means of a sinking fund to have got rid of the whole capital liability?—All interest. We do not propose to reduce the capital in any way.

25. You will have an asset to represent it?—Yes. Nominally we could have a reduction of capital. It would not be true commercial accounting, because of our sale of lands; if we get the price that we should get from our lands, we should really wipe out the whole of the capital cost of the scheme.

26. But I suppose it would not be good accountancy to take the purchase price of the sale of lands, which is certainly an exceptional receipt, and treat it as though it were one of the ordinary pieces of revenue of the year?—Exactly; and what it is proposed to do now is to credit us with interest on the land sales.

27. We heard the same thing. I may say, in the Punjab, where, if I understand rightly, they treat the proceeds of sale of land as exceptional receipts, and keep them in a separate and special account, and they use it, really, for the purpose of meeting liabilities, with the result, for example, that they have not got to call upon the taxpayer to pay the interest on capital charges. It is carried to an exceptional receipts account.—Yes, it is entirely separate.

28. Lord Burnham: Would it for this purpose be deducted in the financial statement? Would the offset moneys received from the sale of lands be deducted and a net amount shown as the cost?—No, we will not do that, because it would be a *reductio ad absurdum*. We should have a project completed at no capital cost at all.



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[Continued.]

29. Is that a *reductio ad absurdum*?—I suppose from an accounts point of view it would be. It would however be a very delightful position.

30. Colonel Lane-Fox: At present Irrigation is, of course, a reserved subject?—Yes.

31. If it was transferred, the prospects of more complete Indianisation of the services, I suppose, would be greater?—Yes, but it is not so much that that we fear; we fear that it would interfere with the impartial distribution of water. At present, as we stand, a minister cannot, from a political point of view, interfere with the strong position that I claim we have now in getting along with our job. I can put it in this way. Political considerations do interfere with us to a certain extent, even under the present form of government, but if they get to a stage at which they become overbearing, there is the safeguard of the Governor's veto.

32. Whereas if the position were really controlled by a minister responsible to the elected Assembly and a constituency, there would be a big risk that he might be subjected to heavy political pressure?—I think he would be overpowered.

33. There would be very important people who would be able to have an effect on him?—I think he would be overpowered.

34. Would not that destroy the whole balance of your scheme?—Exactly. I have had it from a very high Indian politician that no minister would be able to retain his ministry for more than three months if irrigation became a transferred subject. The pressure on him would be so great that he could not do his duty and retain his portfolio.

35. That applies not only to the Sukkur Barrage but to all other irrigation schemes?—All major irrigation.

36. I suppose there is also the fact that at the present stage it will be easier for an Englishman to have those matters to control rather than an Indian?—That is exactly the point. He is in a far more impartial position, a very strong position. That has been put to me in almost those exact words by my own Indian officers.

37. And all that makes a strong case against at this moment transferring irrigation?—That is so. That is the serious aspect of the case.

38. Am I right in thinking that a minister who had to deal with irrigation would be subject to a double pressure: first of all those who, being politically or socially connected with him, might wish to obtain land on easy terms, might bring pressure to bear, and secondly from those who wish to get a reduction of their water rates?—Exactly. I would say there would be three kinds of pressure, firstly that individual, domestic pressure of which you spoke; secondly, the political pressure, which would have to be divided into two parts; in Sind there would be one party, and in the Bombay-Deccan another, whose interests would not coincide with those of the members from Sind because of the difference of religion.

39. Have you heard that is occurring on a big scale in Egypt to-day?—Yes, I have.

40. So it is reported officially. Would you tell me this, because I am not quite sure. As between the Deccan system and the Sind system of collecting water rates and revenue, is there in practice any difference in having two sets of public services to deal with (revenue and irrigation) or does it work out about level?—In Sind I consider there is a good deal of overlapping. We have still to go into this matter, because I want to avoid overlapping from the commercial point of view. In Sind, as I have remarked, there is the established Revenue department for the collection of irrigation revenue. They were established originally, of course, for the collection of land revenue, but Sind is so different from the Bombay Presidency; land revenue in Sind is really irrigation revenue. They collect the irrigation revenue and get one-tenth of it as land revenue. In the Bombay-Deccan it is entirely different; the Revenue department can come round to the cultivator and collect his land revenue without the man ever having done any

irrigation at all, but that cannot be done in Sind except in a few *barani* tracts where there is a little precarious rainfall and a certain amount of cultivation (*barani*) is done under rainfall.

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44. Lord Strathcona: I think you said that not only did you disapprove of the transfer of irrigation, but that some of your European and Indian officers did. Have they been actually consulted on the point?—Yes. We have had meetings in the Presidency proper and in Sind to ascertain their views, and the main point of the Indian officers was that they felt they must have the moral support of the European. They have expressed it in those very words—they feel that they cannot do without the moral support of their European confrere to assist them in their difficult tasks. Success is entirely dependent on the impartial distribution of water, and the word "impartial" is very significant.

45. How have the percentages of the Lee Report worked out in the Public Works department?—At the present moment we have 58 per cent. Europeans and 42 per cent. Indians, and we have got, under the Lee Report, to work up to 40 per cent. Europeans, 40 per cent. Indians directly recruited and 20 per cent. Indians recruited from the lower service; i.e. 40 per cent. Europeans and 60 per cent. Indians. At the present moment, the outcry is that we have already reached the limit of reduction of the European element although we are 58 per cent. Europeans and 42 per cent. Indians; we are constantly being approached by zamindars and Indian members of the legislative council, especially in Sind, to provide more European officers and executive engineers in charge of these irrigation schemes, and we are not able to do it even at the present stage.

46. With regard to the distribution of water, have any experiments been tried in allowing people to distribute their own water?—Yes. These experiments have actually been tried in the Bombay-Deccan, and an invitation was thrown out to the zamindars of Sind to carry out the same experiment. In the Bombay Presidency proper I think there were three or four cases where the experiment was actually taken up, and in every single case it has failed. In two cases they applied for permission to distribute their water through the village panchayat and never came to any action at all, owing to disagreement amongst the panchayat. In Sind, despite the invitation of Government to form the associations, which do not exist in Sind as in the Deccan, not a single association on that particular line has been formed, neither have we been requested to hand over any channel for the distribution of water by the people themselves.

47. On the whole, would you say that the zamindars and cultivators have assisted Government in securing the equitable distribution of water?—I am sorry to say we have had no assistance whatsoever, because, human nature being what it is, there has been a policy of grab ever since we have had possession of Sind so far as the distribution of water is concerned; that is to say, the men at the head of the canals grab all they can, even though those at the tail may starve.

48. The Chairman: That is only human nature, after all.—Yes. We have had to try to hold the balance between them. We have met with great opposition, and we have overcome a certain amount of it; but there is still very great opposition to any attempt of ours to try to get an equitable distribution of water.

49. Lord Strathcona: Do you think that, notwithstanding that opposition, you have succeeded in establishing and maintaining a fair distribution?—I must qualify my answer first, if I may. The conditions on most of the old canals of Sind have militated against an easy and equitable distribution of water. The executive engineer has had to adopt rough and ready methods, but we have advanced this far, that on certain of the better of the older canals we have got what is known as the modulating system, and that gives a proportionate distribution of the

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[Continued]

water to everybody concerned. If we are running the canal at full supply, each man will get the full supply to which he is entitled; if we are running it at half, he will get half. It is a proportionate distribution of water. There has been strenuous opposition to this until, through overcoming some of this opposition, we have been in a position to show the zamindars by actual demonstration that our method is the correct one. The experiment has been most successful in the Eastern Nara tract. Despite opposition, we hope to introduce this method in other tracts. It is most important this should be done from the educative standpoint, because with the barrage distribution of water we *must* adopt the most scientific methods of giving everybody his proper share. We hope to do that by means of the proportionate module.

50. Of course, if this department were transferred recruitment would then become provincial, I presume, and mainly or wholly Indian. Is that one of your reasons for opposing transfer?—That point has been put before our Indian officers—whether that will mean that the provincial service will be wholly Indianised. I am not in a position to say what the actual result would be but that proposition was put as I have said, to the Indian members, and they said quite openly they did not want it. Only yesterday I had up two more officers and asked them, and they were most emphatic in their expression of opinion that it should be 50/50, which is a stronger proportion of European than that laid down by the Lee Commission.

51. I gather that you regard the charging of adequate water rates as absolutely essential to the success of these schemes. Have you ever tried to work out a scheme of distributing water by volume?—Yes, it has been tried, but it is not very successful at present, because it is so difficult to get proper volumetric measures at an economical cost. On the theoretical side, although there have been advocates of the volumetric distribution of water, there are just as many, if not more, against that system, and after much consideration we irrigation officers feel that, although it is far from perfect, the method of measurement by crops, i.e. acreage irrigated, is as good as we can at present devise.

52. Mr. Miller: I should like to ask a few questions about roads and communications. They have a very important bearing on the development of Sind?—Yes.

53. Has it been proposed to hand over works such as provincial roads, which are now in charge of the Roads and Buildings branch of the Public Works department to district local boards?—Yes. It has actually been done in some cases in the Presidency.

54. What has been the result?—Much to my own disappointment, because I was concerned with the experiment, the roads have all been taken back from one district, and the taking of them back from the other district is under consideration; in other words, it has been a failure. In Sind we have no real roads at all. Certain so-called provincial roads have been handed over to the district local boards, but I cannot speak of their being kept in proper condition because they have never been in a proper condition.

55. You consider the transfer of such roads to local boards is not justified?—That is not only my opinion, but I think it is the opinion of all progressive states throughout the world. We have to centralise again in that direction.

56. Is there any hope of local bodies taking over other provincial works of importance in the near future?—I do not think so; I think the hope is getting less and less.

57. Why do you think that?—Do you mean roads as well as buildings?

58. Yes.—There are many reasons militating against it. One is the difficulty the district local board has in maintaining a high standard of efficiency. It means a terrific amount of keenness on the part of the president. He is, after all, an unpaid servant, as against the paid servant who has, we shall always hope, a conscience.

59. Do you consider the roads in this province are adequate to the needs of Sind?—No. I have been into that question in connection with the roads in Sind. Certain roads in the Deccan which were adequate a few years ago cannot possibly stand up to modern forms of transport, and in Sind, as I said just now, practically no roads exist at all, except on the map. We have submitted a report to the Bombay Government in the last six months on a proposal to have certain up-to-date main roads in Sind.

60. Do you think the district local boards would be capable of undertaking this work?—No, I do not.

61. Why?—For the reason I have given. It requires remorseless energy and high technical knowledge to make the best use of the money available. In the Ahmednagar district I do not think the policy of handing over roads failed necessarily owing to the president of the district local board or his committee, but the fact remains it failed under circumstances which are infinitely more favourable than we shall ever get in Sind.

62. Another reason being, I take it, that there would not be any co-ordinated scheme?—Exactly so; that is why we shall have to go back to centralisation.

63. Is it proposed to separate the roads and buildings branch of the Public Works department from the Irrigation branch?—That proposal has been on the tapis for some years now, but I understand the Bombay Government propose to postpone further consideration until after the report of the present Statutory Commission is out. It was opposed by the members of the service for the reason that it reduces opportunities, and it is opposed by the heads of the service because it reduces the field of experience of their officers.

64. Rao Bahadur Patil: Can you give us any idea of the time within which the debt contracted for the construction of the Sukkur Barrage will be repaid with interest?—I cannot give you the exact figure, but it is round about the twenty-first year. We hope the figures will be even more favourable, because we are now revising our forecast.

65. What is the approximate period?—Twenty years from the date of starting.

66. Khan Sahib Abdul Latif: I suppose you are against the transfer of irrigation for Sind?—Both in Sind and the Bombay Presidency proper.

67. You include the Deccan also?—Yes.

68. Can you tell me the reasons for which you are against it in the Deccan?—For the same reason—political pressure is almost as acute in the Bombay-Deccan as it is in Sind.

69. You know there are no big zamindars in the Deccan, whether of the Muhammadan or any other community?—That is so, but where you lose in quality you make up in quantity; there are so many of them.

70. Syed Miran Muhammad Shah: Do you object to the transfer of the Irrigation department to an Indian if he is an executive member just as now?—No, I do not bring the question of personality into it at all.

71. You only mean that it should not be in charge of a minister who might be under public pressure?—Exactly.

72. I want to know your idea of how far public pressure has entered into the conduct of a minister?—Well, it has never arisen, because fortunately for irrigation it has never been in the charge of a minister.

\* \* \* \* \*

76. Do you propose to construct any other barrage of the size of the Sukkur Barrage?—I, personally? I cannot speak for myself, but there are two other schemes that will have to be considered within the next two or three generations—a Barrage at Mithankot and one at Kotri or Jerrak.

77. How long do you think it would take to get that in hand?—I should think it would be thirty or forty years before we could commit ourselves in any way to either of these schemes, unless we can.

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[Continued.]

get an abnormal price for our land, 1,300,000 acres of land. Then we might be able to start in ten years' less time.

\* \* \* \* \*

82. \* \* \* In reply to a question by the Chairman I think you said that money borrowed by the Government of India was lent for irrigation schemes at a slightly higher rate than that paid by the Government of India itself?—Yes,  $\frac{1}{2}$  per cent.

83. Were you complaining about that?—No.

84. You realise that a Presidency could not borrow money on such favourable terms as the Government of India could borrow money?—Yes. I put that up myself as a personal expression of opinion in 1923.

85. On the question of funds generally, have you ever known a demand for grants for any irrigation scheme in the Bombay Presidency being refused by the provincial council?—Well, they have been refused to all intents and purposes, because the opposition has been so great by certain interested parties that Government did not press a division, they withdrew the demands. Government had ultimately to withdraw the demands, though they were actually budgeted and tabled.

86. Can you tell me the reason for the opposition to what is, after all, a most important subject in India?—The reason I mentioned just now is because of this human failing of the selfish motive of the big zamindars, the vast majority of whom are, from Sind, members of the legislative council.

87. With regard to the transfer of irrigation, you have told us who are opposed to irrigation being transferred. Could you tell us briefly who are in favour of the transfer of irrigation, and why?—I think most of our enterprising politicians.

88. Can you say why? Do not answer the question unless you wish to?—It is the question of power, which is sought by all politicians.

89. Arising out of the question of the European officers for irrigation, would you like the Conference to understand that European officers and Indian officers work in harmony in that department?—Yes, they work in very close harmony, almost complete harmony.

90. Have you ever heard any complaint from an Indian officer that a superior post is filled by a European which ought to be filled by an Indian?—Oh, yes, I have heard such but generally they are particular disgruntled cases.

91. Do you find the Indian officer efficient?—Yes, the Indian officer is efficient from the technical point of view. I have the very greatest respect for the technical knowledge of most of my Indian officers that I have serving under me at the present moment, but their defect, which I cannot hide and I must express, is that they are affected by their surroundings. That is the purely personal point of view; the outside influences that are brought to bear on them hamper their efficiency.

92. Your opinion is that a judicious mixture of the two, European and Indian officers, is the best for irrigation?—Exactly.

93. And that does not necessarily apply to irrigation only, does it?—No, not necessarily.

94. You expressed the fear that the great work of the Irrigation department might suffer if irrigation were transferred to an Indian minister responsible to the provincial council?—Exactly.

95. And for that reason you would prefer that it should not be transferred?—Exactly.

96. Would your opinion be derived from the fact of the highest officer in charge being an Indian or a European, or merely from the fact that the Indian would be responsible to the provincial legislative council?—We should have no objection to an Indian being in charge if the subject were not transferred; none whatever.

97. *Sir Hari Singh Gour*: I suppose even enterprising politicians are sufficiently represented in the local council?—Yes.

98. I take it that what you really mean is that

the local council are opposed to the reservation of irrigation?—The question has never been put to me by a body as represented by the legislative council, but only by certain members who happen to be members of the legislative council, and other individuals who hope to be members of the legislative council.

99. You said that your Indian officers are very good so far as the technical side is concerned, but that they had not the power of resisting outside influences?—I did not say "had not the power."

100. They are affected by outside influences?—Yes.

101. Would you not give them a trial so that they may be able to strengthen their character and resist the outside influences?—The words I have used have been used to me by Indians themselves.

102. Would you give them the chance?—I would not mind that experiment being carried out on something less important than irrigation, because on questions of irrigation, especially with a scheme of this size, millions of persons are immediately and directly affected.

103. Then do I take it that you confine your remarks to the Sukkur Barrage staff?—No, my remarks apply to the irrigation staff for the whole Bombay presidency.

104. To enable Indians to get the power to resist outside influences, I want you to put them in the Irrigation department.—Very good, but they cannot be unsupported by Europeans for very many years to come.

105. I do not mind their being supported by Europeans.—Then my further point is that if this experiment is made it is an experiment that is scarcely fair to the general public in a matter of life and death. We are not justified in carrying out such an experiment without very great thought, an experiment of such vital importance to the general populace.

106. You recognise that whether it is a central subject or a reserved subject, the legislative council will have the power to criticise and comment upon and influence Government as regards these subjects?—Yes. We are in a very happy position at the present moment, and that is why I do not want to see it altered. At present the legislative council have virtual control of most irrigation subjects, but they have not absolute control. The virtual control we are all quite satisfied with.

\* \* \* \* \*

113. I am told that the Government of the Punjab want to tap the Indus and its tributaries higher up?—They want to take a certain amount of water, yes.

114. Have you come to any arrangement with the Punjab Government as to how much they will take and how much they will leave for the use of the Sukkur Barrage?—The Punjab Government have put in their demands and we have put in our counter-demands, and the matter will eventually come under the consideration of the Irrigation Board.

115. Consequently the question of what amount of water you will get in future depends on the result of the negotiations which are proceeding between yourselves and the Government of the Punjab?—No, the question at stake is only as to the amount of water we will get in very bad years, and then only for a few days in those very bad years. It is not a question of the failure of the scheme, but of avoiding what might be considerable inconvenience to the Sind cultivator.

116. I think I am right in saying that the amount of water you are able to assure to the people of Sind in future depends on the result of these negotiations?—Yes, exactly.

117. That is true?—That is so as regards new projects. We have virtually said 'to the Punjab, "Hands off all new projects until we can prove that "the water we have is sufficient or not sufficient."

118. *The Chairman*: There is a big project or

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[Continued.]

scheme or idea for what is called the Thal project ; is not that so ?

*Sir Hari Singh Gour* : I am coming to that.

*The Chairman* : It lies between the Indus and the Jhelum.

119. *Sir Hari Singh Gour* : You have the Punjab Government very anxious to utilise all the flow of water that passes through its land, and if a scheme such as that to which the Chairman has referred is brought into operation it will materially affect the success of the Sukkur Barrage ?—If we permit it, yes.

120. You see the uncertainty ?—No, there is no uncertainty now the orders of the Secretary of State and the Government of India have been given that until such time as we can prove there is water available the Punjab projects must not be taken in hand.

121. Suppose they get provincial autonomy, and all the powers of the Secretary of State and the Government of India are transferred to the Punjab Government, then your scheme would be imperilled ?—And the Bombay Government will then have to exert its influence to abolish provincial autonomy.

122. They will use their good offices with the Government of the Punjab, but the Government of the Punjab might say " This is our water, not yours ; hands off ! " In that case, your scheme would be jeopardised ?—That is on the assumption that each province will fight entirely for itself, without any correlating authority, which for the Irrigation department might easily be the Irrigation Board, a technical board. If the provinces desire to live together in any degree of amity they must decide to abide by the decisions of the Irrigation Board for the whole of India.

*Sir Hari Singh Gour* : Yes, but they may or may not, you see. It will depend on the attitude of the Punjab Government, influenced as it must be by its legislative council.

123. *The Chairman* : I see your point, and it is a very interesting one, if I may say so, because of course, as you and I and all lawyers know, if the dispute is between two private individuals who are riparian owners you can go to the law courts, and the lower riparian owner can get whatever the right thing is—by injunctions and so on—against the upper riparian owner, and indeed there may even be some States which might do it ; I am not at all sure one State in the American Union might not do it against another ; but I gather here you cannot have, for instance, the Presidency of Bengal *v.* the Province of the Punjab in some court or other, so really the thing has to be done either by negotiation or by the intervention of some overriding authority. Is not that a fair summary ?—Yes.

*Sir Hari Singh Gour* : Yes.

*The Chairman* : I am interested in it very much, because, of course, it is right to remember that Lord Curzon, when he appointed the Irrigation Commission, regarded this tremendous subject as in a sense an All-India subject. He did not consider provincial boundaries, and his Commission found various places in India which would be the best places for irrigation schemes.

*The Witness* : We presume there will be some authority in the future.

*The Chairman* : It is too early to ask us what will happen ; I am only saying that the Conference, I feel sure, appreciates the necessity of some method by which the different claimants to water can get their fair rights, otherwise the man at the top will take away the water from the man at the bottom. Mr. Harrison, we are much obliged to you. Everybody who comes to Sind is so much interested in the subject of the Sukkur Barrage and I am sure all Sindhis are so proud of this great work, that it is of interest to all of us to see one of the engineers responsible for it. Thank you very much.



**Note on the financial aspects of the proposed Separation of Sind by  
Mr. G. WILES, C.I.E., Secretary to the Government of Bombay, Finance  
Department, dated 15th October, 1928.**

This note deals solely with the financial aspect of the question, and neglects consideration of the difficulty of administering so small a unit in the matters of recruitment of establishments, sudden falls of revenue, high overhead charges and the like, and any political considerations.

The accounts of Sind are not kept separately. But so far as provincial revenue and expenditure are concerned, it is known that Sind had always been a deficit province before the Reforms. The actual figures of receipts and disbursements made in Sind have been gathered for the years 1921-25, and this note is based on those. Up-to-date figures are being collected and will be submitted in continuation of this note. There is reason to believe that they will not modify the conclusions arrived at.

2. The statements attached to this note show that since the introduction of the Reforms, Sind has failed to pay its way, the average deficit being some 25 lakhs. This figure excludes any contribution on account of the cost of the administration other than that of officers stationed in Sind. The statements are made up simply of the receipts and disbursements of the Sind treasuries as modified by certain annual adjustments. In considering the financial effect of the separation of Sind, therefore, the full cost of head-quarter staffs must be added to the cost of administration.

3. There is reason to believe that the deficit on the administration of Sind is larger to-day than it was in 1925. Net Land Revenue (including Irrigation), Stamps and Excise, which are the chief sources of Revenue in Sind, have shown no increase since that year; on the other hand the remission of the Provincial Contribution and the reduction of the Famine Assignment have set free for expenditure a sum of about a crore. Sind has not only had a subsidy from revenues of 10 lakhs a year towards the construction costs of the Barrage, but has also had its share in this expansion, and it is clear, therefore, that the excess of expenditure over receipts must have increased. The *prima facie* conclusion is confirmed by figures published by Prof. Chabiani, a copy of which is attached. Prof. Chabiani was given access to the Accountant-General's records, and his statement will shortly be checked by official figures. His total of revenue for 1927-28 is 174 lakhs and of expenditure (debited to revenue) 238 lakhs, making a deficit of 64 lakhs. There is no reason to doubt that a separated Sind will have to start off with a deficit of approximately this amount.

4. The additional cost of maintaining head-quarter establishments cannot be easily ascertained. If we follow the Assam precedent, we may put it at about 9 lakhs. This figure may be roughly confirmed by the method of expenditure ratio. On the proportion of expenditure in the Presidency to Sind, a sum of about 6 lakhs would be required for a Governor's Staff, Legislative Council and Secretariat. To this must be added the cost of Heads of Departments—Registration and Settlement, Forests, Agriculture, Excise, Jails, Medical and so on. Moreover, the proportionate cost of administering a small province

must inevitably be somewhat greater. Nine lakhs then may be taken as a conservative estimate.

5. No consideration has yet been taken of Sind's share in the capital commitments of the Presidency. Professor Chabiani has argued that Sind cannot in equity refuse to take over its share of the public debt of the Presidency. This is a contentious point with which I need not deal in this note. I will include only interest on capital expenditure made in Sind. Interest on irrigation debt (excluding the Barrage) is included already in the figures of expenditure under the head "14 Interest." There remains therefore capital expenditure on other purposes, viz. Civil Works, Public Health and other works. This has amounted since 1921 to the sum of 107 lakhs; the interest charges on which are 5.85 lakhs; and some provision would be required for the repayment of principal (over a 30 years' period).

6. Sind would also have to take its share in the pre-reform debt on account of the Provincial loan account. At the end of the year the outstanding Provincial debt will be about 102 lakhs and the interest charges are at 4½%. In the absence of details we may assume that one-fourth of the debt is on account of Sind. The debt is being repaid (under the Devolution Rules) by annual instalments of 29 lakhs. This means a payment from Sind of roughly 8 lakhs for 3½ years.

7. The introduction of perennial irrigation into Sind by means of the Sukkur Barrage is necessitating the creation of two new administrative districts in the immediate future. The cost has been roughly estimated at Rs. 6 lakhs recurring and Rs. 10 lakhs non-recurring.

8. A separated Sind then must suffer under the initial heavy handicap of a deficit, which, based on figures of the years 1921-25, cannot well be less than 50 lakhs, and based on more recent figures is expected to be as large as 80 to 90 lakhs. To meet this deficit, Sind has no greater prospect in the immediate future of additional revenue than has the rest of the Province. That is to say, any help from a revision of the Provincial settlement must depend on future surpluses of the Government of India. Sind is not an industrial province, and could not therefore benefit to any extent from the revision that we hope for in favour of the industrial provinces. Apart from fresh taxation, Sind could therefore only rely on the general increase in such revenues as Excise and Stamps due to an advance in prosperity and population, and to the additional revenue expected from the Sukkur Barrage. Now the receipts from sales of land and the additional Land Revenue estimated from the supply of water are fully mortgaged for many years to meet the debt being incurred in the construction of the barrage. It must under the most favourable circumstances be at least 20 years before any surplus receipts can be available for the general purposes of the administration.

9. The conclusion which this enquiry must therefore arrive at is this, that not for a generation at least could a separated Sind financially stand on its own legs.

13 November, 1928.] NOTE ON THE FINANCIAL ASPECTS OF THE PROPOSED  
SEPARATION OF SIND BY MR. G. WILES, C.I.E., SECRETARY TO THE GOVERNMENT  
OF BOMBAY, FINANCE DEPARTMENT, DATED 15th OCTOBER, 1928.

[Continued.]

STATEMENT OF PROVINCIAL RECEIPTS IN SIND FOR THE  
YEARS 1921-22 TO 1924-25.  
(Figures in lakhs of rupees.)

|                                                             | 1921-<br>22. | 1922-<br>23. | 1923-<br>24. | 1924-<br>25. |
|-------------------------------------------------------------|--------------|--------------|--------------|--------------|
| V—Land Revenue -                                            | *144.2       | 83.5         | 72.1         | 62.0         |
| VI—Excise -                                                 | 31.0         | 35.5         | 40.3         | 39.1         |
| VII—Stamps -                                                | 16.0         | 19.4         | 20.2         | 19.8         |
| VIII—Forests -                                              | 8.0          | 6.2          | 6.3          | 6.9          |
| IX—Registration -                                           | 1.8          | 1.6          | 1.5          | 1.5          |
| IXA—Scheduled Taxes                                         | —            | —            | 0.2          | 0.6          |
| XIII—Works for which<br>Capital Accounts<br>are kept -      | 1.1          | 36.5         | 39.3         | 39.2         |
| XIV—Works for which<br>no Capital<br>Accounts are<br>kept - | 0.5          | 0.5          | 0.1          | 0.1          |
| XVI—Interest -                                              | 1.7          | 3.6          | 2.7          | 1.8          |
| XVII—Administration<br>of Justice -                         | 1.5          | 2.1          | 1.9          | 1.8          |
| XVIII—Jails and Convict<br>Settle-<br>ments -               | 0.8          | 0.8          | 1.0          | 1.2          |
| XIX—Police -                                                | 0.2          | 0.3          | 0.2          | 0.4          |
| XXI—Education -                                             | 0.7          | 1.0          | 1.0          | 1.5          |
| XXII—Medical -                                              | 0.2          | 0.4          | 0.4          | 0.3          |
| XXIII—Public Health -                                       | —            | 0.1          | 0.1          | 0.2          |
| XXIV—Agriculture -                                          | 0.4          | 0.4          | 0.7          | 0.7          |
| XXVI—Miscellaneous<br>Departments                           | 0.1          | —            | 0.1          | 0.1          |
| XXX—Civil Works -                                           | 0.5          | 0.9          | 0.7          | 0.9          |
| XXXIII—Receipts in aid<br>of Super-<br>annuation -          | 1.4          | 1.7          | 2.1          | 2.0          |
| XXXIV—Stationery and<br>Printing -                          | 0.2          | 0.2          | 0.3          | 0.3          |
| XXXV—Miscellaneous -                                        | 0.2          | 0.3          | 0.8          | 0.3          |
| TOTALS -                                                    | 210.5        | 195.5        | 192.0        | 180.7        |

STATEMENT OF PROVINCIAL EXPENDITURE IN SIND FOR  
THE YEARS 1921-22 TO 1924-25.  
(Figures in lakhs of rupees.)

| Major Heads.                                                             | 1921-<br>22. | 1922-<br>23. | 1923-<br>24. | 1924-<br>25. |
|--------------------------------------------------------------------------|--------------|--------------|--------------|--------------|
| <i>Ordinary Expenditure.</i>                                             |              |              |              |              |
| 5—Land Revenue -                                                         | 23.0         | 40.1         | 39.2         | 13.8         |
| 6—Excise -                                                               | 2.5          | 1.3          | 1.3          | 1.9          |
| 7—Stamps -                                                               | 0.7          | 0.9          | 0.8          | 0.7          |
| 8—Forests -                                                              | 4.2          | 3.5          | 3.6          | 4.1          |
| 9—Registration -                                                         | 0.8          | 1.0          | 0.9          | 0.9          |
| 14—Works for which<br>Capital Accounts are<br>kept—Interest on<br>debt - | 11.4         | 12.9         | 16.2         | 21.5         |
| 15—Miscellaneous Irriga-<br>tion Expenditure -                           | 38.2         | 23.1         | 13.5         | 23.1         |
| 22—General Administra-<br>tion -                                         | 14.3         | 20.7         | 19.6         | 44.8         |
| 24—Administration of<br>Justice -                                        | 10.0         | 9.6          | 10.0         | 11.5         |
| 25—Jails and Convict<br>Settlements -                                    | 6.3          | 5.9          | 5.2          | 5.9          |
| 26—Police -                                                              | 40.8         | 36.1         | 35.1         | 36.0         |
| 27—Ports and Pilotage -                                                  | 0.1          | 0.1          | 0.1          | 0.3          |
| 31—Education -                                                           | 23.4         | 23.0         | 26.6         | 23.8         |
| 32—Medical -                                                             | 5.9          | 4.6          | 5.3          | 5.3          |
| 33—Public Health -                                                       | 3.1          | 3.5          | 2.9          | 2.9          |
| 34—Agriculture -                                                         | 3.5          | 3.3          | 3.3          | 3.4          |
| 37—Miscellaneous Depart-<br>ments -                                      | 0.3          | 0.3          | 0.3          | 0.3          |
| 41—Civil Works -                                                         | 22.2         | 10.4         | 6.5          | 8.0          |
| 45—Superannuation Allow-<br>ances and Pensions -                         | 5.9          | 6.1          | 6.9          | 7.1          |
| 46—Stationery and Print-<br>ing -                                        | 1.2          | 1.3          | 0.9          | 1.0          |
| 47—Miscellaneous -                                                       | 1.5          | 1.3          | 4.0          | 5.2          |
| TOTALS -                                                                 | 244.4        | 209.0        | 202.2        | 221.5        |

\* Inclusive of "Portion of Land Revenue due to  
"Irrigation," which is shown in subsequent years under  
head "XIII."

| Major Heads.                                               | 1921-<br>22. | 1922-<br>23. | 1923-<br>24. | 1924-<br>25. |
|------------------------------------------------------------|--------------|--------------|--------------|--------------|
| <i>Capital Expenditure.</i>                                |              |              |              |              |
| 55—Construction of Irriga-<br>tion Works -                 | 5.6          | 19.1         | 51.5         | 124.0        |
| 56A—Capital Outlay on<br>Improvement in<br>Public Health - | —            | 5.3          | 0.5          | —            |
| 60—Civil Works not charged<br>to Revenue -                 | —            | 7.1          | 5.5          | 12.2         |
| GRAND TOTALS -                                             | 250.0        | 240.5        | 259.7        | 357.7        |

PROVISIONAL RECEIPTS IN SIND.

|                                                       | (Figures in lakhs of rupees.) |
|-------------------------------------------------------|-------------------------------|
| V—Land Revenue -                                      | 67.1                          |
| VI—Excise -                                           | 38.7                          |
| VII—Stamps -                                          | 19.2                          |
| VIII—Forests -                                        | 7.1                           |
| IX—Registration -                                     | 1.6                           |
| IXA—Scheduled Taxes -                                 | 0.5                           |
| XIII—Works for which Capital Accounts are<br>kept -   | 28.1                          |
| XIV—Works for which no Capital Accounts<br>are kept - | 0.3                           |
| XVI—Interest -                                        | 1.3                           |
| XVII—Administration of Justice -                      | 2.1                           |
| XVIII—Jails and Convict Settlements -                 | 0.8                           |
| XIX—Police -                                          | 0.6                           |
| XXI—Education -                                       | 1.3                           |
| XXII—Medical -                                        | 1.2                           |
| XXIII—Public Health -                                 | 0.1                           |
| XXIV—Agriculture -                                    | 0.5                           |
| XXVI—Miscellaneous Departments -                      | 0.1                           |
| XXX—Civil Works -                                     | 0.9                           |
| XXXIII—Receipts in aid of Superannuation -            | 1.9                           |
| XXV—Miscellaneous -                                   | 0.5                           |
| TOTAL -                                               | 174.3                         |

PROVINCIAL EXPENDITURE IN SIND.

|                                                                              | (Figures in lakhs of rupees.) |
|------------------------------------------------------------------------------|-------------------------------|
| 5—Land Revenue -                                                             | 14.03                         |
| 6—Excise -                                                                   | 3.30                          |
| 7—Stamps -                                                                   | 0.70                          |
| 8—Forests -                                                                  | 3.90                          |
| 8A—Forests -                                                                 | 0.03                          |
| 9—Registration -                                                             | 0.88                          |
| XIII—Irrigation : Working Expenses -                                         | —                             |
| 14—Works for which Capital Accounts are kept -                               | 15.46                         |
| Interest on Debt (excluding on Sukkur<br>Barrage).                           | —                             |
| 15—Miscellaneous Irrigation Expenditure -                                    | 24.00                         |
| 22—General Administration -                                                  | 44.56                         |
| 24—Administration of Justice -                                               | 11.57                         |
| 25—Jails and Convict Settlements -                                           | 6.23                          |
| 26—Police -                                                                  | 36.06                         |
| 27—Ports and Pilotage -                                                      | 0.12                          |
| 31—Education -                                                               | 27.70                         |
| 32—Medical -                                                                 | 6.73                          |
| 33—Public Health -                                                           | 2.30                          |
| 34—Agriculture -                                                             | 4.70                          |
| 37—Miscellaneous Departments -                                               | 0.30                          |
| 41—Civil Works -                                                             | 11.10                         |
| 43—Famine Relief -                                                           | 2.31                          |
| 45—Superannuation Allowances and Pensions -                                  | 7.60                          |
| 46—Stationery and Printing -                                                 | 0.96                          |
| 47—Miscellaneous -                                                           | 4.15                          |
| 55—Construction of Irrigation Works -                                        | 234.00                        |
| 16—Financed from Famine Insur-<br>ance Grant toward Interest<br>on Barrage - | 10.00                         |
| * Sukkur Barrage -                                                           | 221.73                        |
| Other Irrigation Productive Works -                                          | 1.50                          |
| Do. do. Unproductive Works -                                                 | 0.77                          |
| 60—Civil Works not charged to Revenue -                                      | 6.63                          |
| 60B—Commutation of Pensions -                                                | 0.87                          |
| TOTAL -                                                                      | 470.19                        |

\* NOTE.—Includes 25 lakhs Interest on Barrage Capital.

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Mr. F. C. ISEMONGER.

**PESHAWAR.****Dated, 20th November, 1928.****PRESENT :**

ALL THE MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND), MAJOR NAWAB AHMAD NAWAZ KHAN, THE HON. MAJOR NAWAB MOHOMED AKBAR KHAN, NAWAB SIR SAHIBZADA ABDUL QAIYUM, AND RAI BAHADUR KARAM CHAND.

**Mr. F. C. ISEMONGER, Inspector-General of Police, North-West Frontier Province.**

1. *The Chairman* : Mr. F. C. Isemonger, you are the Inspector-General of Police in the North-West Frontier Province ?—Yes.

2. For how long have you been Inspector-General here ?—Since the end of 1925.

3. Where was your previous service ?—My previous service was in the Punjab.

4. You are, of course, an All-India officer ?—Yes.

5. You entered the Indian Police service at the beginning of your career, and you are now Inspector-General of Police in this province ?—Yes.

6. Please tell us this, so that we may get it on the note and be clear about it. When one speaks of being Inspector-General of Police in the North-West Frontier Province, does that mean in the area comprising the five settled districts, or does it include the tribal tracts ?—It includes only the area of the five settled districts.

7. Then, as I follow it, so far as there is control in the interests of law and order beyond the five settled districts, in the tribal tracts, that is a matter for the political agency—do you call it ?—Yes, the political agency.

8. And the khassadars one sees when driving up the Kyber road ?—Yes.

9. It has nothing to do with you. In each of these five settled districts is there an officer under you responsible for the district ?—Yes, a superintendent of police.

10. I gather you do not use the term "district superintendent of police" here; you call him a superintendent of police ?—Yes, in this province.

11. There is one in each district ?—Yes.

12. At present are any of those five officers Indians ?—There was an Indian officer, but he has been transferred for service in the Constabulary at the moment. He is on our cadre.

13. So if one had been here a short time back, one would have said four of them were British officers and one was an Indian officer ?—One was an Indian officer, yes.

14. Was he promoted from the provincial service ?—Yes.

15. What is the size of the force of police under your control ?—The police force is 6,000 strong.

16. A little arithmetic is useful. What is the population of the five districts ?—Two and a quarter millions.

17. That means, roughly, there is one policeman for every 375 inhabitants ?—Yes.

18. I should like to get it in terms of area also, because, of course, we have had these figures elsewhere in India. I think the area of the five districts is 13,500 square miles ?—Yes.

19. So that gives you a policeman to every two and a quarter square miles ?—Yes, that is correct.

20. How is your police force recruited ?—We recruit a large percentage in this province and a certain percentage from the Punjab. We have been endeavouring to get a number of Hindu recruits for duties in the cities and cantonments, and for those we are chiefly dependent on recruitment in the Punjab. The remainder are recruited from the neighbouring districts of Mianwali and Campbellpur, or from districts within this province.

21. Are the whole of the recruits put through a training with arms ?—Yes.

22. One question about the education of the force. Can you give me a figure to tell me what proportion of your force is literate ?—I think it is about 28 per cent.—27 or 28 per cent. Then, when we get our recruits into the lines, we endeavour to teach them elementary reading, writing and arithmetic, to be able to read signs, numbers on cars and so on. It is not literacy, but it is the beginning of it.

23. I think we had better have a few statistics about crime. Can you give me any figure, say, for the last ten years, giving the average number of crimes which came under the notice of the police ? I think you call them "true cases" ?—Yes. The average number of true cases of murder has been something over 500 cases a year. Last year there were 514 true cases of murder. That does not include attempts at murder, of which there were about 150 cases.

24. I have some figures in front of me which you gave me before coming into the room : murder, 514 true cases ; attempted murder, 143 ?—Yes.

25. I might add one or two other figures : dacoities, 56 true cases ?—Yes.

26. Robberies, 101 true cases ?—Yes.

27. Burglaries, 1,052 true cases ?—Yes. There are about two cases of burglary to every case of murder.

28. May I, as an antiquated lawyer who is rapidly forgetting all about it, inquire whether "burglary" in this country necessarily means entering a dwelling at night ?—There are two forms : burglary by night and burglary by day.

29. In England "burglary by day" would be a misnomer ; we call it housebreaking. Burglary, according to the old English law, is always a night crime, but here it is day and night ?—The correct terms are housebreaking and housebreaking by night ; I am afraid I have made a loose use of the word burglary.

30. Do not think I am complaining ; but the 1,052 are by day and by night ?—Yes, but the majority would be by night ; the number of cases by day is very small.

31. What do you mean when you speak of these figures as being figures of "true cases" ?—We keep statistics also of the number of cases reported to the police, to the police stations ; but when investigation shows that reports are due to a mistake of fact or are maliciously false, those cases are eliminated, and for the purpose of statistics we deal with the true cases.

32. It means instances in which the police, after inquiry, are fairly well satisfied that the crime was really committed ?—Yes.

33. But of course it does not necessarily mean cases in which the criminal was caught or was convicted ?—No.

34. As a matter of fact, can you tell me out of some total or other what is the sort of percentage of true cases that can be investigated and brought to trial ?—I have the figures here. So far as murder cases are concerned, last year 99 cases were convicted by judicial courts ; 75 cases were acquitted by judicial courts ; 170 cases were convicted by *jirgas*,

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[Continued.]

and 55 cases were sent up to *jirgas* and acquitted; the balance—115 cases of murder—were not detected or apprehended.

35. That gives a very good picture, I think. There is one thing I should like to know about that. I caught you saying that cases were sent up to the *jirgas*. In this province is there a practice by which some charges of crime are sent to a *jirga* to be investigated?—Yes, to be investigated and tried; the procedure is adopted when it is impossible, owing to the intimidation of witnesses, or to strong local influence, for the police to elucidate the true facts and to take action under the provisions of the ordinary law. It frequently happens that in a case of murder, before a report is made to the authorities, the relatives will prepare a case for the police. They will prepare evidence against their personal enemies and endeavour to inculcate them in this offence. They will produce their witnesses and have a case ready for the police to investigate. If a case of that sort, supported with evidence that is clearly false, were sent to a court for judicial trial, it would inevitably end in acquittal. It is better to get such a case placed before a Council of Elders, who sift the evidence placed before them and submit their conclusions to the district magistrate, who finally passes orders.

36. That means to say, either confirming or varying the recommendation of the *jirga*?—Yes.

37. This is very interesting. When you say the relatives prepare a case, do you mean the relatives of the accused prepare a case, knowing that it will break down?—No, the relatives of the murdered person will prepare a case in order to incriminate their enemies.

38. In order to inculcate somebody who is accused?—To inculcate some personal enemies who they think are likely to have been concerned in the murder or who they would like the police to believe were concerned in the murder.

39. When there seems to be a true case of murder, who decides whether the question of whether there was a murder, and if so, who committed it, shall be remitted to a *jirga*?—Or to the court, you mean? The police submit their investigation to the district magistrate.

40. And the district magistrate—?—Decides whether the case is one for submission to a *jirga* or to a district court.

41. We recognise the difference between your duties and judicial functions, but I do not think it is carrying you out of your province to ask you this. Are you fairly well satisfied with the way the *jirgas* here do their work?—Yes, I think so, on the whole. In cases tried by a *jirga* the extreme penalty is never enforced; they cannot pass a sentence of death.

42. What is it? Seven years' rigorous imprisonment?—Up to fourteen years. The powers of punishment in a case of that sort are limited.

43. Apart altogether from your police force, I think there is, is not there, another organised body called the Frontier Constabulary?—Yes.

44. Who is the administrative head of the Frontier Constabulary?—A commandant—a police officer.

45. Is he under the Chief Commissioner?—He works directly under the Chief Commissioner.

46. What is the size of the force of the Frontier Constabulary here?—Approximately 5,000 officers and men.

47. Do I understand rightly that it is what one might call an allied service?—Yes.

48. An allied service with your own. Let us follow what it does. What is the main object served by the Frontier constabulary?—Their main duty is to guard the border, to prevent the incursion of outlaws, to close the border when raiders come into the districts and prevent their escape, and to work in that way in close co-operation with the police; to collect political information from areas either across the border or just within the district which is of importance as affecting the peace of the district, and to communicate that to the deputy commissioner.

49. When you speak of the "border," I imagine you mean the boundary line between the districts and the tribal area?—Yes, the boundary of the British districts.

50. When the Commission motored out the other day to Landi Kotal it passed this boundary line soon after leaving Peshawar, before getting to Jamrud?—Yes, one and a half miles short of Jamrud.

51. To make it entirely clear, of course the *khassadars* who are organised by the political agents in the tribal area are quite separate?—Entirely independent.

52. And they deal with the tribal areas?—Yes.

53. How is the Frontier Constabulary recruited?—They are recruited from this province and from tribes in the tribal areas just across the border. There is a percentage fixed for recruitment.

54. One question about Indianisation, and then I will leave the matter. What is the rate of Indianisation laid down for the Indian Police service in the North-West Frontier Province according to the Lee Commission?—We are working to 25 per cent. Indians.

55. As my colleagues remember, the percentage is different in different parts of India. Down in Madras it would be a very much bigger percentage—25 per cent. by the date which is fixed, whatever it is?—Yes.

56. We have asked elsewhere the Inspector-General of Police to tell us in a sentence frankly what his view is as to the prevalence or absence of corruption in the force under him. Could you give us your own view of that?—Yes, sir. Corruption, I think, exists in every department throughout the country. I do not think it exists more in the police than it does elsewhere, very often not to the same extent. We do our best to keep it down, and whenever a case of irregularity occurs we are very prompt in taking it up. In reviewing the annual report of the administration of the police in the Punjab last year the Punjab Government stated that as regards corruption and departmental indiscipline the supervising agency in the Police have a record for vigilance, prompt investigation and effective punishment, to which no department of Government can offer a parallel.

57. You are evidently quoting?—I am quoting an extract from the Punjab Government's review of the police administration in the Punjab.

58. Is that an annual document?—Yes, a report of the administration of the police is published every year in regard to the crime existing in each province, the working of the police, and matters of police interest.

59. It would be Mr. Stead's document, probably?—Yes, Mr. Stead's, but the principles which are followed in the Punjab are followed up here. We form part of the same cadre; our officers are interchanged with the Punjab, and we carry on the same procedure as in the Punjab as far as possible.

\* \* \* \* \*

60. Lord Strathcona: Does your experience lead you to believe that some amendment of the Frontier Crimes Regulation is essential, as was recommended in the Bray Report?—May I get that clear. Do you mean to say the use of the Frontier Crimes Regulation?

61. I think they referred more to the excessive use of the *jirga*, and also having a different system of justice in the towns as opposed to the country?—There are two matters for which we use the Frontier Crimes Regulation, the reference of certain cases to *jirga* and the placing of people on security under the Frontier Crimes Regulation to prevent bloodshed in pursuance of blood feuds and serious disorder. In regard to both those matters, very strict orders have been issued. We refrain as far as possible from referring cases to *jirga*, as it is the duty of the police first of all to obtain evidence and put their cases in court if possible. It is only in the last

\* Report of the North-West Frontier Enquiry Committee, 1922.



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[Continued.]

resort that cases are sent to *jirga*. As regards placing people on security under the Frontier Crimes Regulation, where it is possible to take action under the ordinary forms of law, such procedure is followed. It is only in order to prevent wholesale murder or bloodshed that recourse is had to the other Regulation, to prevent the carrying out of blood feuds, for instance, or to prevent an outbreak of violence. We are trying to keep the figures down, but, in my opinion, the continuance of the Frontier Crimes Regulation is absolutely necessary up here.

62. Would you favour an amendment so far as the question of the *jirga* system in the urban districts is concerned?—In urban areas, yes.

63. That was recommended by the Bray Report?—Yes.

63A. Lord Burnham: It may be useful, in order to get the actual sentence on the report, if I read from page 27 of the Bray Majority Report, line 3 and the following lines: "To repeal"—they are speaking here of the Frontier Crimes Regulation—"its civil sections would be to inflict great hardship on the Pathans, who rely on them for a cheap and expeditious settlement of their disputes by a *jirga*—the Pathan panchayat—according to their ancient tribal custom. To repeal the criminal sections would be to undermine the forces of law and order and to deprive the Hindus in particular of one of their greatest safeguards in a land where passions are hot, blood feuds are endemic, legal evidence is exceedingly difficult to obtain, and refuge from the arm of the law is close to hand across the border. To repeal the trans-frontier sections would be to paralyse our whole system of trans-frontier control. Indeed, the validity of one or other of these provisions was admitted under questioning by nearly every critic of the Regulation, however loudly he had called for its repeal." Do you agree with that?—Yes, I agree.

64. You have nothing to add to that?—No.

65. Would you allow me to ask you whether, in your opinion, you consider it necessary to maintain the present proportion of European requirement for your force for the good conduct and efficiency of the police?—Yes.

66. You do not recommend any change in that respect?—No, I recommend no change.

67. And you would deprecate any change?—Yes.

68. We have to do with finance, but I am not asking your view at all from the financial point of view. Could you give us a rough estimate of what amount of the police duty which your force performs is connected with the military side of this province, the cantonment areas and associated matters, and how much of your police duty is due, therefore, to the necessity of the army being kept here for the defence of India?—Does the presence of the troops impose extra duties upon us? Is that the question?

69. Yes, that is the question.—Well, the existence of cantonments up here with a large number of women and children necessitates greater supervision, greater efforts to prevent the entry of undesirables into cantonments and strict measures of protection. We have, as you know, round Peshawar, Bannu and Kohat a barbed-wire perimeter to prevent the ingress of criminals into cantonments at night. Approximately two-thirds of that area is patrolled by police from the evening time to early morning. We also employ patrols during the day to look out for people coming into cantonment areas. We are constantly checking the *sewaits* to see who comes in and who goes out. All those duties are necessarily imposed in consequence of having a large cantonment area to protect.

70. It follows, therefore, does it not, that a large part of the cost of the maintenance of the police is directly due to the maintenance of the military in this province—substantially, if you like? I am not asking you for figures, because, of course, you are not a financial expert.—Yes, the fact that we have large cantonments here does impose extra duties,

and means the maintenance of a large force of police in our cantonments for their protection.

71. The Chairman: \* \* \* The cost of the North-West Frontier Police is given \* \* \* as 29 lakhs, and the cost of the Frontier Constabulary in round figures at 12½ lakhs?—Yes.

72. Colonel Lane-Fox: Do you recruit for the police from over the boundary, from the tribal area?—No, practically not at all. We recruit a few Afidis, but as a rule for police duties we recruit within the province or from the Punjab. It is not a very safe thing to do to recruit from tribal areas and bring them into the towns, and for that reason we do not do it.

73. Mr. Harshorn: Did not I understand you to say that for the purposes of the Frontier Constabulary you recruited from over the border?—Yes, there are different rules relating to the constabulary. Their services are mainly on the border.

74. It is a service apart from yours?—Yes.

75. Colonel Lane-Fox: For the constabulary, but not for the police?—The rules of recruitment for the constabulary differ from those of the police because the duties of the former lie on the border, and they collect political information from the other side. Consequently the constabulary recruit the men who are able to be most useful for their work.

76. Major Atlee: Could you tell me in your experience has there been an improvement in crime during your service here?—On the Frontier?

77. Yes?—Yes, I think there is a very considerable improvement up here. Kidnapping, for instance, has largely disappeared. Police work has improved. We get more cases into court; more convictions. There is greater peace. People can travel on many of the roads at night where only a few years ago they were unable to travel without an escort.

78. Do you attribute that to improved police methods, or to any change in the circumstances or habits of the population?—I should say it is largely due to changed conditions on the Frontier, and that the police may take a certain amount of credit also for improved methods of work; but I think the first factor is the change of conditions by the extension of roads and more peaceful conditions amongst the tribes.

79. How far would you say the bulk of your crime was due to feuds and that sort of thing, and how much was due to the economic conditions of the people? How far do you attribute crime to lack of means of subsistence?—It has a large effect on crime. If you can keep the people occupied and their economic conditions are good, there is naturally less crime, but there is not less violent crime. Violent crime is our problem up here. You find that the number of murders equals the number of cases of theft reported during the year, and half the number of cases of burglary.

80. The Chairman: The figure for murders you gave us was 514. I see the number of thefts, distinguishing theft from burglary, is 545?—Yes.

81. Major Atlee: Do I understand that murders are not generally arising out of the commission of an offence like burglary or dacoity, but on some other ground?—Life is very cheap up here, and a man may be shot or knifed in a quarrel arising over a trivial dispute. There are far more cases of that sort—murders arising out of trivial disputes—than others, such as shooting people on the roads as an accompaniment of highway robbery.

82. Sir Hari Singh Gour: How far do the public here co-operate with the police in the detection of crime?—Not to a very great extent.

83. Is there any marked hostility of the people towards the police?—No, I should not say that.

84. Indifference?—Indifference more than hostility.

85. And want of sympathy?—There is lack of sympathy. I think the police are regarded, particularly in the agencies, as a force to be feared rather than desired.

86. Is it the case that the offenders who commit

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[Continued.]

murder in these five settled districts sometimes, if not in many cases, escape into the trans-border areas?—Yes, a percentage escape across the border.

87. What would be the percentage of offenders who escape justice in that way?—I cannot give you the figures off-hand.

88. It must be a fairly large percentage?—Fairly large. We have got a certain number of outlaws, people who have committed offences within British territory who have escaped over the border—proclaimed offenders.<sup>1</sup>

89. What means have you to bring these escaped offenders to justice?—The Political department assists us. If a man goes over the border, he has got to be harboured, he has got to be fed and housed, and pressure therefore can be brought to bear upon the tribe concerned to hand him back again, or to pass him on to other areas. If he should venture back on his own account into his own village, it is the business of the police to catch him.

90. What percentage of escaped offenders do you think you would get in that way?—In the past three years the average of captures is about 100 per annum. The number who go across the border is decreasing because of changed conditions. Our outlaw problem is not so serious now as it was a few years ago.

91. Does the political officer assist you in extraditing the offenders?—Yes, frequently.

92. Would he act in his executive capacity or under the Extradition Act?—In his executive capacity. The Extradition Act does not apply to tribal areas.

93. As regards municipal areas, have you got the *jirga* system operating also within the municipal areas?—No. We do not use it. We send up cases to courts.

94. Have you the option of sending up cases arising out of the municipal areas to a *jirga*?—I have not examined the provisions of the law on the point. In fact that procedure is not carried out.

95. As regards the *jirgas*, that is the Council of Elders, they are not bound by any rules or procedure of evidence?—Surely; they have to follow certain prescribed procedure.

96. Not the Criminal Procedure Code?—The Criminal Procedure Code does not apply.

97. Are you satisfied that the *jirga* system brings real offenders to justice?—Yes; I think so.

98. And do you think that the *jirga* system prevents innocent people from being convicted?—I think on the whole the system works fairly well. I think the safeguards followed to prevent innocent men being convicted are generally good.

99. There is no appeal or any judicial check against the decision arrived at by a *jirga*?—Oh, yes. I can remember an occasion on which a *jirga* convicted some persons, and a representation was made to the Chief Commissioner; and there was a retrial and the conviction was set aside. There is appeal to the head of the administration.

100. Mr. Cadogan: Are all the sentences of the *jirga* subject to revision or not?—No. Normally I think there is an appeal to the Chief Commissioner. I should rather have that question referred to Mr. Metcalfe when he comes. He knows more than I know about it.

101. The Chairman: I understand that the finding of a *jirga* is sent up before the district magistrate, or some authority of that sort, and I think it is for him to pass the order?—I think, sir, that the finding is referred to the district magistrate before passing an order.

102. They recommend and it is for the district magistrate to adopt that recommendation or not?—Yes, I think that is correct.

Sir Abdul Qaiyum: The district magistrate has got the power of accepting or rejecting or doing anything with the verdict of a *jirga*. But the Chief Commissioner can only interfere on the revision side if the sentence is excessive or illegal. Those are the only two grounds on which he could interfere, and

those are the only two words used in the Regulation. Otherwise there is no appeal.

103. Sir Hari Singh Gour: That is to say, there is no appeal or revision on a finding other than the illegality or the quantum of the sentence?—Yes.

104. But not on the question as to whether the man is innocent or guilty, or whether a man was wrongly sent up before the district magistrate?—I think there is no appeal or revision against that.\*

105. As regards corruption in your police force, what percentage of corrupt practices has been punished?—I think the figures are very low. I will just refer to my last year's report. The number of punishments for the whole force last year was 137, including 38 dismissals. We had one officer removed for dishonesty.

106. Are these all subordinate officers?—We had a case last year in which a gazetted officer was concerned. That case is still *sub judice*, and I cannot say very much about it.

107. Sir Arthur Froom: Have you any cases of murder of the police in the execution of their duty? You say there were 514 murder cases last year. Of those murdered people, did any or many of them belong to the police force?—I cannot say many, but cases occur every year in which men are shot or killed in the execution of their duty. Last week, on the 11th of this month, a constable accompanying an officer bringing in a couple of prisoners was shot on the road a couple of miles outside Mardan, which is a sub-division of Peshawar. The sub-inspector was wounded. Cases of that sort occur from time to time. The men constantly run considerable risks of life.

108. But generally speaking, would you consider that the tribesmen regard it as a fair game to shoot policemen?—No; I do not think there is any reason to say that. An outlaw would shoot a policeman whom he encountered in order to save himself being shot if he was not prepared to surrender promptly.

109. So cases of murder of the police really occur when they actually are in the active execution of their duties?—Yes.

110. Sir Zulfiqar Ali Khan: Will you tell me whether in your experience here you have come across any case of anarchical crime such as happen in Bengal?—Not in my experience; none.

111. Could you tell me whether there is any nervousness existing among the Hindu population as to the police administration?—Yes. From time to time I have had representations made to me to increase the number of the Hindu police in cities and cantonments. And, as I told you, for some years now we have been endeavouring to give a definite percentage of appointments to the Hindus in our cities and cantonments to prevent an entirely Muhammadan force coming into existence. But, as I said, we have to recruit largely from Punjab and there is considerable difficulty in getting men up here.

112. You say that there has recently been a diminution of crime and yet you say it has not given peace of mind to the Hindus?—The Hindus are not nervous in regard to the general statistics of crime, but it is on occasions of communal troubles elsewhere, which have their repercussions up here, that there is a feeling of insecurity. For that reason the Hindus naturally would like to have a considerable percentage of police of their own people.

113. Do you think the relations between the Hindus and Muhammadans are on the whole good?—We have had no communal disturbances up here for the past three years, and that is a very clear proof of improved relations.

\* The witness subsequently stated that the correct reply should have been:—

"The words contained in Section 50 of the Act provide that the Commissioner can set aside a finding 'when there has been material irregularity, or defect in the proceedings, or when the proceedings have been so conducted as to occasion a miscarriage to justice.'"

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[Continued.]

114. You have said that you have got here a police force of 11,000?—6,000 police and 5,000 Frontier Constabulary.

115. This is a sort of auxiliary force?—It is run as a separate department.

116. Where is it used?—Chiefly on the borders.

117. Beyond the Khyber?—Not beyond the Khyber. We have a force along our borders with detachments at head-quarters—viz. at Shabkadr, Michni and Peshawar. In the next district of Kohat we have detachments at Kohat, and Hangu; also in Bannu, and Dera Ismail Khan and on the border of Waziristan.

118. All these come to 11,000?—Yes. Police and constabulary.

119. And it costs you about 50 lakhs?—About 47 lakhs approximately.

*The Chairman*: As a matter of fact, it is 28½ lakhs for the police and 21½ lakhs for the constabulary.

120. *Sir Zulfiqar Ali Khan*: Do you think that a similar force in the Punjab costs much less?—Conditions of service up here are different. In the Punjab you keep ten to twelve men in the police station, but we have to keep sixteen or eighteen, because we have to protect stations from attack from outside. It is difficult to compare conditions in the Frontier and in the Punjab.

121. Could you tell me whether these policemen show any partiality towards their own tribesmen?—No. I think it is extraordinary that the police force is practically never affected by communal trouble. They do their duty loyally to both sides.

*The Chairman*: We had similar testimony in the Punjab.

122. *Raja Nawab Ali Khan*: Will you tell me why you have to look to the Punjab for recruitment of Hindus?—We have to fix certain standards just as in the army. The Hindu population come up here largely for business and for purposes of trade. They do not furnish the right material.

123. Is there any desire or demand from the Hindus of this province to enter into the police service?—There is very little offer from the Hindus up here for police service.

124. *Rao Bahadur Rajah*: Is the police service in the North-West Frontier Province open to all communities?—Yes. The conditions of recruitment are the same as in the Punjab.

125. Do you recruit members of the depressed classes in the police service?—No; we do not.

126. Why?—Because the class is not suitable, and does not offer for service.

127. If suitable candidates are available, will you open the service to the members of the depressed classes also?—If they come forward and are suitable I will take them.

128. *Sir Abdul Qaiyum*: Can you give us an idea as to what proportion of the police is attached to the cantonments for the protection of the cantonments area?—I am afraid I have not got the figures here.

129. How many police stations have you got?

*The Chairman*: There are 89 police stations and 69 outposts.

130. *Sir Abdul Qaiyum*: And you said that the strength of these outposts is something like 18 or 20?—The strength of a police station varies from 16 to 18.

131. Will that give us a rough idea of one-third of the police force?—That gives you about 2,000 men.

132. What I am driving at is this, that supposing there are 89 police stations and 69 outposts, and taking the strength of each police station to be, say, 16, that will not give you more than 2,000 people, which is about one-third of your police force?—I think we have nearly got 2,000 people in cities and cantonments. 1,730 to be exact.

133. So that takes away a good deal of the force. Does that include the guards supplied to various houses in the cantonment?—No; it will not. In the cities and cantonments I have got actually 1,730 men.

134. And you cannot give a correct figure for the outposts and the police stations?—I think that the strength of each police station will be 16 to 18, and that of the outposts will be 8 to 12 men.

135. Am I correct in understanding that only one-third of the police force is actually employed in the rural areas in police stations and outposts?—No; you have got a third of the force employed in cities and cantonments and two-thirds employed as reserve and throughout the districts.

136. What will be the proportion of the reserve men actually on duty in the outposts?—The reserves are maintained at the head-quarters, not at the outposts. The total reserve is fixed at different figures—6·5 for recruits and 11 per cent. for leave, and 17·5 per cent. is a general reserve for districts.

137. Perhaps that is quite near my point. It is only one-third of the police force or thereabouts that looks after the rural population outside the towns and cantonments?—No. That will be rather a low estimate. You have got a third in cities and cantonments. Some of those employed in cities are employed in urban areas in the districts and beyond head-quarters. They must be included in the percentage of police employed for protection in the districts.

138. Supposing this force of 1,700 which you have just mentioned is there, how does that compare with the whole police force? Is it one-fourth or one-fifth?

139. *The Chairman*: What is the suggestion? Will you please tell me what it is that you want us to understand by your question?

*Sir Abdul Qaiyum*: What I want to suggest, sir, is this, that the urban population, according to my idea, has absorbed a greater portion of the police force, while the rural population to which I belong does not require so much police force, and so the rural population is not very turbulent and not very criminal.

140. *The Chairman*: Your object is to show that people there are not so very turbulent as otherwise it would be thought?

*Sir Abdul Qaiyum*: Yes, sir.

141. *The Chairman*: I gather that some of your police force will be on duty in cantonments, some will be on duty in preventing crime in urban areas outside cantonments, while some will be on duty in purely rural areas. Without going into the precise factors, can you tell me out of the whole force what sort of proportion is likely to be on duty in rural areas?—I estimate it at about 3,000, sir; that is, about half of the total.

142. *Sir Abdul Qaiyum*: That is quite clear; thank you. So, half of the total is employed in the rural areas. And then as to the expenses, a good deal, as you have informed us, will go for the police supplied for the protection of cantonments?—A considerable amount goes for the protection of cantonments and the cities as well.

143. About this violent crime of murder, do you not think that it is to some extent due to the existence of this *jirga* system which makes the police slack in bringing the criminals to justice? After all, for the offence of murder the criminal is let off with a small sentence of seven years or so, and do you not think that that encourages the commission of murder?—I am afraid I cannot admit slackness on the part of the police. We do our duty, but we are confronted with a very large amount of difficulties. You know the customs up here, and as I have stated, that a complainant before going to the police to present his case will spoil it by trying to incriminate as many of the enemies as he can by preparing false evidence. How are you going to deal with that, or how can the police deal with that?

144. *The Chairman*: To save time, is it your view, Nawab Sahib, that there ought to be no Frontier Crimes Regulation at all?

*Sir Abdul Qaiyum*: No, sir. The Frontier Crimes Regulation is very good.

145. *The Chairman*: Then do you not think that

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we have already got the opinion of the witnesses on the point already?

*Sir Abdul Qaiyum*: What I want to know, sir, is whether a difference is made between a weak case and a strong case which is referred to a *jirga*?

*The Chairman*: I think we have already agreed that we will find it out from Mr. Metcalfe when he comes.

146. *Sir Abdul Qaiyum*: Yes, sir. (To the Witness): Do you find your policemen very reliable?—Yes.

147. Are you never afraid of using your police force in riots? Have you ever found them unreliable?—I have not had any serious riots during my incumbency.

148. Can you tell me from your experience if your police force has ever failed you or your predecessors in reliability?—I am not aware of any such thing.

149. Then in order to remove the fears and suspicions of the Hindu population, and give them more confidence in the police force, why have you to import superior Hindu constables from outside?—We have recruited a percentage of Hindus in order to keep a balance of communities in the force.

150. From outside?—Yes.

151. Do you think that local people will not be coming forward?—Generally speaking, the material available locally is not satisfactory.

152. Do you not think that these people are only anxious to find employment in the higher grades? Do you get sufficient recruits for the higher posts?—I can give you the figures: 16 per cent. of inspectors are Hindus, 30 per cent. of sub-inspectors, 12 per cent. of head constables and 13·4 per cent. of the constables are Hindus.

153. *Sardar Shivdev Singh Uberoi*: Are there any Sikhs?—There are a certain number of Sikhs also; for purposes of classification they are included among Hindus.

154. *Sir Abdul Qaiyum*: I understand that the police here is a part of the Punjab police?—The Imperial officers are on the same cadre while the provincial service is separate.

155. With regard to promotion to the rank of the Inspector-General, is local service taken into consideration or does it go by seniority throughout the Punjab?—It is a selection appointment.

156. Who makes the selection?—The Punjab Government have a say in the matter, and the local Administration has also a say in the matter.

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### Mr. H. A. F. METCALFE, C.I.E., I.C.S., Deputy Commissioner, Peshawar.

164. *The Chairman*: Are you Mr. Metcalfe, Deputy Commissioner, Peshawar?—Yes, sir.

165. Before taking up your present post did you serve for a time as one of the Political Agents?—Yes.

166. Which was your agency?—Malakand.

167. You have also been previously Deputy Commissioner in Dera Ismail Khan?—Yes, sir.

168. Let me just ask you one or two questions about the political agency first. The Frontier Crimes Regulation, I think, applies to the settled districts, does it not?—It also applies to certain portions of the political agencies. In the Malakand, for instance, the actual part which surrounded the head-quarters was known as the protected area. There were a certain number of villages in that area, which extended to about 20 square miles, where the Frontier Crimes Regulation was in force and powers were given to the political agent under the Regulation in that protected area.

169. Broadly speaking, is it not true to say that the Frontier Crimes Regulation Act is an Act which is extended to these settled districts?—Not entirely so; it is used extensively all over the agencies. The Malakand is peculiar in the fact that it contains several large States which are governed by independent regulations, but in other agencies, in the Kurram Valley, for instance, and in the North and

158. *Rai Bahadur Karam Chand*: You said that 16 per cent. of inspectors and 30 per cent. of sub-inspectors are Hindus. Are they working in the different *thanas* or are they working in the office?—Some are working in the districts and some in the office; it includes everybody.

159. My information was that most of these men are working as clerks.—No; my clerical establishment is not big enough to absorb them all.

160. *Nawab Ahmad Nawaz Khan*: Can you not reduce the number of your constables employed within the cantonment?—I am afraid not. If you remember the area of the place you will get an idea as to how many men are required to be constantly patrolling when it becomes dusk until early morning when the sun rises and there is once more security for the inhabitants.

161. What I mean is this. The cantonment authorities have their own sentries.—They are responsible only for the portion covering their own lines. There is another matter. You must remember that the protection of cantonment means the prevention of people from coming into the city. This is natural, for if criminals can make their way into the cantonment, they will also go to the city and loot shops there. So the protection of this portion of the country affords very excellent protection also to the city.

162. What I want to know is this. If you were to ask the General Officer Commanding the district to issue orders to the Colonel Commanding the brigades to increase their patrolling, can you not reduce your police force?—If you are going to throw the whole burden on the military you will have to ask them to perform all the duties of the police. My men do not merely patrol at night but have to perform other duties during the day. If I were to make a small reduction of work in the matter of patrolling at night it does not necessarily mean that I can make a reduction in the force.

163. You said that cantonment has a very large area. If you ask the General Officer Commanding to help you in patrolling that area with his own army men, can you not reduce the number of your men?—The army men have their own regimental duties to perform and if you entrust the whole work of patrolling to the troops, I am afraid you will have to increase the strength of the regiments. As I have already said, the police do not merely patrol at night but perform other police duties.

South Waziristan agencies, the Frontier Crimes Regulation is extensively used and is in force.

170. Under the Frontier Crimes Regulation jurisdiction is given to tribal tribunals whether for civil or for criminal enquiries?—Yes, that is so.

171. I will summarise for the convenience of the Conference what seems to be really material. So far as civil disputes are concerned, I see that the provision is that where the deputy commissioner is satisfied that a dispute exists which is likely to cause trouble, he may refer the dispute to a Council known as *jirga* and may ask this Council of Elders to make a finding which is reported to him. Is that right?—Yes.

172. Is the finding in writing?—Yes.

173. Is it a fairly elaborate finding?—The finding is always in writing and usually in cases of difficulty it is fairly elaborate. I think I may explain that in the majority of applications made under Section 8, i.e. civil, they are sent in the first place to some prominent local gentleman belonging usually to the locality in which the parties reside and he makes a decision usually by compromise between the parties without any reference to the *jirga*.

174. It comes to this: In as far as you can get a more or less agreed solution, either because there is a Khan whose authority and standing carry weight



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or because there is an agreement or compromise between the parties, you do it. If I may say so, any sensible administration will do that. Where people are not agreed, am I right in saying that the deputy commissioner in this case refers the question to a Council of Elders for them to report to him, they then report to him in writing usually pretty elaborately with the finding of facts?—Yes.

175. When they so report to him what does the deputy commissioner do in civil cases?—He passes a decree in accordance with their finding.

176. Generally speaking, does the deputy commissioner accept the finding of the facts?—As a general rule, yes.

177. I suppose many of them may affect either questions of matrimonial relations or questions of customs relating to land?—Yes. But there are also questions of payment of money but those are usually settled without reference to the *jirga*.

178. Speaking generally, do you find that the Council of Elders agree amongst themselves or they have differences of view on the questions referred to them?—Almost invariably the finding is unanimous.

179. The Statutory Commission has seen something of the working of a panchayat in the Punjab. What has impressed me is that the system has this advantage, not only does it get rid of a good deal of technical load, but also, since the inquiry is made more or less on the spot, the probability of false and ridiculous evidence is largely excluded because, in truth, the people know the right offenders.—It also avoids the difficulty of paying heavy court fees.

180. Yes, it has this material advantage that there is no wasting of money on lawyers. Now on the criminal side, may I sum up again? Where either the commissioner or the deputy commissioner considers that it is inexpedient that the question of guilt or innocence of a person accused of crime should be tried by the ordinary judicial system, then he may refer the question to the decision of the *jirga* and require the *jirga* to come to a finding on certain questions. Is that the system?—Yes.

181. Do you formulate questions?—The questions involved are formulated in writing by the deputy commissioner in his order of reference.

182. The *jirga* then sits and when it has investigated the matter, apparently it answers those questions?—Yes.

183. Does the recommendation in a criminal case, if the view is that the crime was committed by the man, include a recommendation for punishment?—It is frequently a recommendation for mercy based on the circumstances of the crime which the *jirga* have found in the course of their investigations.

184. In these criminal cases, for instance, murder, is the finding often elaborate? Is it set out in some detail?—Almost invariably, so far as my experience goes, the finding has been a very full one and gives the deputy commissioner both the facts of the case and the reasons which the *jirga* has found for arriving at those conclusions.

185. Assuming that they take the view that the crime has been committed and that the person named is guilty of the crime, do they recommend any punishment?—Sometimes they do and sometimes they do not. But it is usual—and I think desirable—for the deputy commissioner to discuss with the members of the *jirga* both before and after they bring in their findings—certainly after—exactly what their feelings are as a result of their investigation, on that point as well as on others and satisfy himself that the finding is based on good evidence.

186. Has the *jirga* in a criminal case any power to recommend death?—No.

187. What is the maximum penalty which the *jirga* can recommend?—Fourteen years' rigorous imprisonment, but punishment over seven years is subject to the sanction of the Chief Commissioner.

188. After the recommendation has been considered by the deputy commissioner, will he issue his order upon it?—Quite so. He is not bound to

accept the decision of the *jirga*. If the finding is that a man is not guilty, that finishes the matter so far as he is concerned; if their finding is guilty, the deputy commissioner is not necessarily compelled to convict the man. He has still complete discretion as to whether he should convict or not.

189. Let me read the relevant section: "On receipt of the finding of the Council of Elders under this section, the Deputy Commissioner may—

"(a) remand the question to the Council for a further finding; or

"(b) refer the question to a second Council; or

"(c) acquit or discharge the accused person or persons or any of them; or,

"(d) in accordance with the finding on any matter of fact of the Council, or of not less than three-fourths of the members thereof, convict the accused person or persons, or any of them, of any offence of which the facts so found show him or them to be guilty."

That is the scheme?—Yes, sir.

190. As regards criminal *jirgas*, generally speaking, do you find that the members of the *jirga* agree in their conclusions?—They are almost invariably unanimous. You will observe that a three-fourths majority is necessary for conviction, but they are almost invariably unanimous.

191. Beyond that again, if the sentence be more than seven years' rigorous imprisonment there would be review by the Chief Commissioner?—Quite so; the Chief Commissioner has absolute powers to increase or reduce the sentence.

192. On the whole do you consider that this system you have summarised works fairly and satisfactorily?—Yes; I think on the whole it does, and I think it would be very difficult to do away with it. It has its disadvantages, but on the whole, I think, those are outweighed by the advantages, provided that it is administered only by experienced officers who scrutinise with great jealousy the list of *jirga* members and take very good care to see that it is not used by those members for purposes of corruption. The list is very small, and is purposely kept low. And anybody against whom there is a general report of inefficiency or corruption is promptly removed. That, I think, is the most essential safeguard in the working of the system.

193. Supposing a person who is suspected objects to the constitution of the *jirga*, has he got any right to make his objection?—Certainly; that is actually laid down in the Regulation. In practice, that is a right which is always accorded not only to the accused, but also to the complainant. The members of the *jirga* are invariably appointed in the presence of both parties—I mean the names are selected in the presence of both parties—and each party has a right to challenge, and if the challenge appears to be valid, that name is immediately rejected and another name substituted instead.

194. Always subject to the precautions which you have emphasised, this system is one which you think should be preserved?—Certainly.

195. Now I will ask one or two questions about your work as deputy commissioner. What are the main branches of your work in this province?—The main branches of work of the deputy commissioner are revenue, law and order, which includes both the prevention of crime and the punishment of crime and a certain amount of political work which varies in importance according to the district—by political work I mean political control of tribes living actually beyond the administered border.

196. With regard to the revenue work, and law and order, these are subjects which may be more difficult in some respects here, but they are subjects which are a part of the work of the deputy commissioner or his corresponding officer in various parts of India. As regards your political work, it is rather special?—Yes.

197. Would you like to say anything on your work in connection with law and order? Do you consider

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it a work which in this part of the world involves any special features or difficulties?—Certainly there are special difficulties owing to three causes. The first cause is the manner in which the average Pathan—I am speaking particularly of Peshawar district; it varies in other districts—regards human life as having very little value indeed; I do not think it is too much to say that possibly one out of every twenty inhabitants of the rural tracts is a potential murderer. Another cause is the fact that the public opinion against murder is not very great. In the case of certain offences committed against oneself it is regarded as only your duty to commit murder in revenge.

198. You mean touching a man's honour in his home life?—Yes. The third cause is the large armament which exists at present in this district alone. There are something like 3,000 rifles—I am talking about the licensed ones—half of which are issued by Government for the purpose of village defence.

199. You are speaking, I understand, of the Peshawar district alone?—Yes.

200. What is the population of Peshawar?—I should say it is about three-quarters of a million; I speak subject to correction.

201. What would be the length and breadth?—I think it is 80 miles long and about 50 miles broad.

202. You said that there are 3,000 licensed rifles. Do you think there are a certain number more that are not licensed?—I have no doubt about that. In addition to that there are a very large number of licensed revolvers and pistols.

203. You have mentioned first of all the psychology, secondly you have mentioned the attitude of public opinion about recourse to even murder by way of wiping out certain insults and thirdly of the prevalence of possession of weapons in the area. Is there anything else?—Yes, sir. The fourth thing is the proximity of the border which acts both as a refuge to criminals and also a base from which crimes can be committed.

204. 514 is the figure for last year of the true cases of murder in the five administered districts. Can you say how many there were in Peshawar district last year?—There were 222 murders.

205. To what extent do you think there is movement across the frontier—I mean between districts and the tribal area, backwards and forwards—which complicates the task of law and order in the settled districts?—The problem is a serious one. I can only speak of this district. But there is no question that out of those 222 murders committed last year a number of them were directly due to the immigration of Mohmands who come down here; many of them come to avoid tribal feuds which they have in their own country; their enemies follow them up and commit murders here. Similarly with the immigrants who come in from Afghanistan and elsewhere. They are lawless people, and they do not have even the little respect that our common people have for the ordinary laws.

206. We are all very carefully considering one of the proposals put before the Conference yesterday. It was a proposal by which the five administered districts might enjoy a new Constitution in which, according to some of those who spoke yesterday, there would be complete provincial self-government which would, I suppose, include transfer of the subject of Law and Order to the control of the local legislature and a minister responsible to that legislature; and bounded by a line which divides the settled districts from the tribal tracts. How far will that kind of problem be complicated by the fact that the line is an imaginary line and is not a barrier which keeps people from passing forward? What do you think about that?—I think it certainly will complicate the problem, because the authority, such as it is, that we wield across the border will rest not with the newly constituted Government, but presumably with the political officers who will have no allegiance or responsibility to that Government.

I take it that it is proposed that the political officers who live across the border controlling the tribes will in so far as they do that work not be under the Minister of Law and Order.

207. I understand the suggestion to be that the self-government area will be limited by this boundary line and the tribal tracts beyond would remain under the direct administration of the Government of India officers?—It has always been found that very close co-operation and goodwill between the deputy commissioner and the Political Agent is necessary in order to secure the prevention of crime. You can understand that a Political Agent living across the border is in some respects interested in the welfare of his own people and he is occasionally regarded as the so-called vakil or pleader on behalf of his own people; and unless he keeps in very close touch with the deputy commissioner, who is responsible for the district, difficulties may arise in the maintenance of law and order in the district.

208. Colonel Lane-Fox: I take it that under the present conditions of the province the ordinary elections to a council would be rather difficult?—I should imagine they might; but one has no experience, and I do not like to prophesy. The ordinary technical details can, of course, be learnt from other provinces from experience; but one does certainly anticipate that there might be some exacerbation of communal feeling, especially in the case of a thing which has not happened before.

209. Probably it would be wiser to start as a preliminary not on a system of wholesale election but to have a system of nomination also?—Without some very definite system of communal election I should imagine it would be necessary to have nominations in order to safeguard minorities. It does not appear it will be safe to have a wholly elected council or anything like that to start with. This is, however, a question of policy, with which the district officer is not called upon to deal.

210. The Chairman: There is at present, is not there, absolutely no case of an election by ballot in the Peshawar district?—None at all.

211. Neither for the rural nor for the urban areas?—No; all local bodies are appointed purely by nomination.

212. Colonel Lane-Fox: The Bray Committee recommended or suggested that as regards the urban areas the application of *jirga* system should be practically done away with. Do you agree with that?—I agree; it is very seldom used in urban areas, and I always use it with the greatest misgiving.

213. Mr. Cadogan: Is it your experience that the findings of the *jirgas* require modification? Is it as a rule?—Not as a general rule, because their findings are only on a question of fact; they are not asked to deal with any legal question at all.

214. In criminal cases?—I think not. You accept them or reject them; you do not modify.

215. You reject them frequently?—Not very frequently.

216. Is it your opinion that it is an efficacious system?—Very efficacious.

217. The Chairman: When they return a finding that the man is innocent there is no question of rejecting that decision at all?—No. I only meant cases of conviction.

218. Mr. Cadogan: Has not the district magistrate got the power to refer the case back?—All that he can do is to refer the case to the Chief Commissioner for his orders as to the appointment of a second *jirga*.

219. You said there were 3,000 licensed weapons in the Peshawar district. What percentage does that include of persons who are qualified to get a license?—It rests entirely in law with the deputy commissioner and in practice with the Chief Commissioner. No rifle license is under present circumstances issued without the sanction of the Chief Commissioner. Those 3,000, I should explain, include 50 per cent. Government rifles issued under

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the direction of the deputy commissioner and carefully checked by the district officer, Frontier Tribes, for purposes of village defence. They are the property of Government and they are given under certain statutory rules.

220. *Sir Hari Singh Gour*: If an offence is committed in a settled district and the offender escapes to the tribal tract, what means have you of bringing him to justice?—One of the proceedings we take is under sections 87 and 88 of the Criminal Procedure Code. But the principal way by which you protect your district against outlaws is in consultation with the Political Agent in whose territory the offender takes refuge. If you are also the Political Agent yourself you work direct. It is to be understood that in almost every case an outlaw takes refuge with a *malik*, as he is called. You make or you get the Political Agent to make that *malik* responsible for the behaviour of the outlaw, and so far as you can, you can bring pressure both on the relations of the outlaw and on the *malik* who lives across the border and soon that man is brought in to stand his trial; there have been a great many cases recently in which outlaws have surrendered themselves for trial.

221. Do you think a large percentage of offenders are brought to justice in that way?—They have been recently. New rules on the subject were framed by Sir John Maffey, who recognised the importance of the matter, and I think that the rules on the whole work pretty well. There is an outlaw register maintained in the district under the direct supervision of the deputy commissioner, and he is responsible for seeing that all particulars regarding the outlaw and the offences committed are entered and the offender is never lost sight of.

222. What is the percentage of offences in the five settled districts committed by the transborder tribes?—That is a question for which there may not be a correct answer even if I had the figures before me. There is a very large percentage of dacoities and so on attributed to outlaws very often by the local people, who wish to avoid the blame, which would otherwise fall upon themselves. If the man is said to have merely committed a dacoity and to have gone back into outlawry, it is frequently impossible to prove whether he did commit it or not, so that no figures would really be of any value even if I had them to give you.

223. I understand that the members of the *jirgas* are at liberty to consult, and in fact do consult, the deputy commissioner before they record the findings. Is that right?—I do not think so. As a general rule the file is handed over by the deputy commissioner in person, and he probably gives it with a short résumé of the case and points out the question which they are called upon to answer. The consultation, if any, or the discussion—discussion is perhaps the better word—takes place after the finding has been recorded, and is merely for the deputy commissioner's own satisfaction that that finding has been arrived at by reasonable methods and with perfect conviction on the part of the members that it is a just and suitable finding. That is the object of the discussion.

224. Do the *jirgas* record the proceedings in writing?—As a rule the evidence is not recorded *in extenso*. A brief note is the rule, and the whole substance of the proceedings is usually recorded in the finding, which frequently gives a summary of the evidence too.

225. Have there been complaints that the members of the *jirgas* have at times been corrupt?—There have, of course, been, and for that reason it is the deputy commissioner's duty to exercise strict supervision over the list.

226. Are the deputy commissioners who are appointed for these five settled districts generally senior officers? Is it not a fact that very junior officers are appointed?—That occasionally happens for a short time owing to administrative difficulties. After all, we depend for our officers on the main

cadre of the Foreign and Political department. This province has to take what is sent to it, and it has no separate cadre of its own. If senior officers go on leave and so on and only junior officers are left, it is necessary to appoint those juniors in charge of the districts.

227. Is it a fact that sometimes officers of three years' standing have been appointed as deputy commissioners?—I could not tell you off-hand. The information would probably be available.

228. In any case the officers who are appointed as deputy commissioners have no judicial training of any kind?—As a rule they have judicial training, I think. Most of the officers, and I think, in fact, all, during their probationary period in the Political department have an extensive course of training in some regular province. The Indian Civilians who come from other provinces have usually at least three or four years' experience in that province, where they presumably receive judicial training.

229. *Sir Arthur Froom*: It is known that for the last seven or eight years in the major provinces in India there has been some form of self-government which is by some people called diarchy, and from certain people in this province a demand has arisen for full provincial self-government. The demand has been put forward by a certain section of the public here for full provincial self-government in the North-West Frontier Province. Would you feel inclined to give this Conference the benefit of your opinion on this demand briefly with reasons?—It is somewhat difficult for me to do so as a Government servant.

230. Not in detail, but generally. You know there are not even the Montford Reforms here, and now there is a demand for a full provincial self-government with a provincial legislative council in the North-West Frontier Province.

*The Chairman*: You say it is somewhat difficult to do so as a district official. I am sure the Conference desires you only to answer what you think you can answer in view of your position as a district official. If you feel you can help us in giving an answer to the question we shall be glad to have it, but if you do not, I may tell you that you will be under no pressure.

*The Witness*: The only thing that I am faced with is this. My views on the subject are not very considered because I have no experience of the working of diarchy in other provinces, and that is in itself a considerable handicap in forming the views. Another point is that as a government official of a comparatively inferior status one's duty is to carry out policy and not to formulate it. One feels that to express one's views in such a situation is of very little value because the policy will be formed above and it is one's duty to carry it out. What I do feel from the point of view of the district officer—and perhaps this I may be allowed to say—is that one anticipates with a little alarm the prospect of the executive being weakened, which will make one's hold over law and order even more difficult than it is at present, and one also views, at any rate without any pleasure, the prospect of any weakening in the influence of Khans and other people who are at present a great stand-by and of great assistance to the district officer in preserving law and order and in deciding difficult questions connected with that matter. If the introduction of Reforms or self-government were to have either of these effects, I think it would make it more difficult for the district officer, who would, of course, try to do his best in any changes which might be imposed upon him by the higher authority.

231. *The Chairman*: I am sure the Conference is much obliged. You have spoken with proper discretion, but I ought just to point out for clearness' sake that the actual matter put is not the question as to your view if there was established here a system which now exists in other provinces. The question went much further than that, as to what would be your view if the system now existing in the Governors' provinces was abolished and there

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was complete self-government in this area. But I am not asking your view now.

*Nawab Ahmad Nawaz Khan* : I may explain, sir, that the *jirga* itself is a good system. It was first started at the request of the people of this province. I am myself the head of a *jirga*. It is administered for the good of the people, to save them from litigation and other things. I may say that it has never been influenced by the deputy commissioner. The deputy commissioner never tells us to do this or that, because if he says anything at all I should be the first person, as the head of a *jirga*, to be told.

*The Chairman* : It has never been suggested that the *jirga* gets orders from the deputy commissioner.

*Nawab Ahmad Nawaz Khan* : Recently there was a case where it was rumoured that the *jirga* went and consulted the deputy commissioner. To know the truth, I myself had a talk with the deputy commissioner, and the rumour was found to be false. As is pointed out, it is a sort of swaraj or local self-government of the people. It is a hereditary sort of thing. This is the good side of it. But what people object to is this : It is generally objected to by the pleader class as it affects their pockets because they are not allowed to appear or plead before the *jirga*. When people go to them to consult them they say "What is the good of the *jirga* ? There is no vakil, there is no evidence, there is no appeal and there is no argument." That is one objection that is put forward. The real objection is that we Indians sometimes on account of recommendations or on account of jealousies or on account of bribes, destroy the confidence. I am speaking this frankly. It is often said that sometimes rich people who possess wealth buy some of the members of the *jirga*. Perhaps that is the chief defect. But that defect, I think, applies also to the regular courts. We occasionally hear that the Indian magistrate or the judge has been bought over. But as Mr. Metcalfe has pointed out, we always try to get the best men on the *jirga*. If you have got an honest set of people on the *jirga*, there cannot be any reasonable complaint. Sometimes even the poor people or the low class people who sit on the *jirga* are more honest than the Khans themselves. So the real thing is that we must get honest men, and under such conditions the *jirga* is a blessing ; otherwise it is a curse.

232. *Sardar Shivdev Singh Uberoi* : How many members form a *jirga* ?—As a rule, four or five. There used to be cases in which sometimes the number was ten, but that is not general.

233. *The Chairman* : You form a *jirga* for each separate case ?—Yes.

*Sir Abdul Qaiyum* : As there should be a three-fourths majority in the *jirga*, the number cannot be less than four.

234. *Nawab Mahomed Akbar Khan* : Do you not think that if there is a special secretary appointed under the Chief Commissioner to receive the reports from the *jirga*, to sift the whole thing and to put up his reports to the Chief Commissioner, it will be a better solution ? Of course there may be financial difficulty. But apart from that, if there is a secretary who knows something about the *jirga* system to put up his own notes when the findings go up to the Chief Commissioner, will it be a better system ?—I personally can see very little advantage in placing a further intermediary between the Chief Commissioner and the deputy commissioner. No deputy commissioner ought to, nor do I think he does, exercise powers and certainly no assistant commissioner exercises powers under section 11 of the Frontier Crimes Regulation unless he has considerable experience and is well able himself to decide what he thinks correct. The Chief Commissioner is almost invariably a man of considerably greater experience than anybody else, and the setting up of an intermediary between him and the officer who decides the case does not seem to be of any particular value. It only means eventually that the Chief

Commissioner will have to read another note in addition to the evidence and all the matters that are already on the file, and I can assure you that at present the Chief Commissioner has quite enough to read in reading what is on the file already, and he does read it and pass orders. I do not see much value in the suggestion myself.

235. Do you not think it better to have a *Shah jirga*, to which an appeal lies from the *jirga*, as they have in Baluchistan ? Do you not think that that system will work better ?

*The Chairman* : In point of fact is that right ? We had been to Baluchistan, and I did not understand that there was an appeal as of right from an ordinary *jirga* to the *Shah jirga*. I was expressly told that there was not. The "King *jirga*" there meets once a year, and it is intended very largely to decide matters affecting the whole area or cases which have resulted in a deadlock. I do not think that there is a regular appeal to the *Shah jirga*.

236. *Sir Abdul Qaiyum* : I should like to explain one thing before I ask my questions. I am very much in favour of the retention of the Frontier Crimes Regulation. It has got many good provisions and very good procedure. It is only about the use and the practice of that Regulation that I will be asking a few questions. In the first place the Regulation is so grasping that it can be applied even to the heart of Tirah, and I believe it is being applied to Razmak, and its application can even be extended, if I am not mistaken, to any part of a tribal area, if not to Afghanistan itself.

*The Chairman* : I feel pretty sure, if you will allow me to draw on my experience as a lawyer, that though a Regulation such as this may provide against crime in the Frontier districts in charge of the Governor-General, it cannot possibly on its proper construction be extended to Afghanistan.

*Sir Abdul Qaiyum* : By a mere notification it could be applied to various places outside the districts, sir, and so under the same authority it may be applied to any other place. Anyhow, I am a layman, sir, and you are the highest authority on legal matters, and so that point may be left out.

*Lord Burnham* : You mean it applies to no man's land ?

237. *Sir Abdul Qaiyum* : It applies and has been applied. That is what I say, sir. (To the Witness) : As regards the provisions in the Regulation itself, what I say is that in civil cases where there is a danger of breach of the peace, the Regulation should come in. Whereas in practice I have noticed that when there is an Afghan subject to whom some little money is due from one of our citizens in the town and he is in a hurry to go back to Afghanistan, he asks for the assistance of this Regulation in order to hurry up the recovery of his loan, and the Regulation is applied in that case. I wonder if it really was meant to be applicable to such cases. I thought it was really meant for cases of such importance as were likely to lead to bloodshed and in order to safeguard against that, this Regulation was made, but not for the recovery of trivial loans of a few rupees due to some man who was in a hurry to go back to his home. So, will it be possible to specify the civil suits where the Regulation should be brought into operation ? Although suits are classified here for this purpose, namely the prevention of bloodshed, and it may not be quite possible to classify these suits like the classification of crimes which come under this Regulation but some more definite classifications may be possible. That is one point.

*The Witness* : May I point out one thing ? You yourself, Nawab Sahib, will admit that there is no sum of money too small for a murder not to be committed on account of it. Frequently cases have come before me where for matters of even eight annas more than one murder had been committed. It is all a matter of temper.

*Sir Abdul Qaiyum* : I quite agree, sir, that sometimes even a penny leads to a murder. But what I



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want to ask is whether you will leave the provision as wide as it is now.

*The Chairman*: Of course I am much obliged to you for having brought out that point. There again it is partly a question of administration and partly a question of a possible interpretation of this particular law. It is hardly, is it, in itself a great constitutional question. The reason that we put the question was in order that we might understand the general nature of the disputes that arise and the general nature of the application of the Regulation in dealing with them.

*Sir Abdul Qaiyum*: May I suggest, sir, that in the case of a reference under this section there should be a written note from the district officer that as the case is likely to lead to bloodshed, it is referred to a Council of Elders? Then about the criminal cases, as far as I know, the Regulation requires that when it is found expedient that the question of the guilt or innocence of a person should be referred to a *jirga*, then it should be referred, sir. While this is so, I should like that some sort of specific reason be put in the order of reference by the district magistrate that is that for such and such reason it is expedient that the question should be referred to a Council of Elders. My object is there should be one big proviso that on no account where the evidence is weak a case should be referred to a Council of Elders. It is to that particular point, sir, that I want to draw the attention of the Conference and should like to get the opinion of the witness. My experience is that where the police fails, and the magistrate too with his legal knowledge and assisted by the pleaders cannot come to a correct conclusion then the magistrate says that the "evidence is weak and that it cannot stand the scrutiny of a law court; let the case be referred to a Council of Elders." It is there that my objection comes in, sir. It was never meant by this Regulation that the deficiency in evidence or slackness—if I may be allowed to say so—on the part of lower officials in not carrying out their duties properly \* \* \* should be supplemented by a procedure of this nature. That is my point, sir.

*The Witness*: May I say a few words on the other side, sir?

*The Chairman*: Yes, but I do not want to encourage a discussion on it. It is not a constitutional point.

*The Witness*: The only thing that I want to say is that I entirely agree with the Nawab Sahib on the question of referring cases purely because the evidence is weak. There are, however, two points to be considered on the other side. One is the great difficulty of securing evidence to be actually produced in a judicial court which is available before a Council of Elders through reasons of fear and so on which may prevent people from coming forward before the court, while the *jirga* which goes and visits the spot and makes local enquiries is sometimes able to arrive at a perfectly true and satisfactory decision on a point where no evidence at all was available before the court. The only other point is this. You frequently get cases where a brutal murder is committed; nobody will come forward before a judicial court to say how that murder has been committed, or by whom it has been committed. In such cases the magistrate has two alternatives, either to let the murder go entirely unpunished and thereby to encourage the persons aggrieved by that murder, the relations of the deceased man, to take the law into their own hands. The other alternative is to put up the case to a *jirga*. Let them go into the matter and settle questions as they very often do by the administration of the customary oath. At any rate, if a *jirga* has done that, and they even found the man not guilty or whatever it is, it is some satisfaction to the relations of the murdered man, and it is less likely to produce further bloodshed arising out of that particular crime. Whereas if a magistrate simply says there is no judicial evidence in this case and therefore

I will not refer it to a *jirga*, the relations of the deceased are left without any other remedy than the violent but not legal remedy.

*Sir Abdul Qaiyum*: Unless they are eye-witnesses themselves, they will have to depend on the hearsay evidence of other persons given to them in private, and as the state of society at present is, there are always two factions in a village, one in favour of the accused, the other favouring the complainant. So they will have to depend on hearsay evidence not open to cross-examination and the result, to my mind, will not be satisfactory. I can believe, sir, that if the guilt or the innocence of a man is referred to a *jirga* composed of his own father, brother, uncle, or first cousins, they may perhaps possess some first-hand knowledge of his guilt or innocence. But anybody beyond those will have to depend on hearsay evidence. Perhaps there may be no new material before them, which was not or could not have been brought before the open court, and cross-examined.

*The Chairman*: I am much obliged to you for bringing out those points. They are very useful.

238. *Sir Abdul Qaiyum*: Do not you think, sir, that on account of the inadequacy of the sentence passed under the Frontier Crimes Regulation—that is a murderer getting off with a sentence of seven years—that murders are likely to be encouraged? The second thing which we have noticed here is the possession of arms—Government arms—and the third is the existence of so much levies and others who possess these arms. Can there be any improvement according to your idea if the sentence under the Frontier Crimes Regulation which you seem to appreciate, is raised to, say, death?

*The Chairman*: I would like to follow that point. Do I understand that your suggestion is that whatever may be the shortcomings of the *jirga* system, it will show some improvement if the *jirga* in a criminal case where they find that a murder has been committed should recommend the death sentence?

*Sir Abdul Qaiyum*: Yes.

239. *The Chairman* (to the Witness): Do you agree?—No. I have understood that it has always been the law that fourteen years is the limit and death sentence cannot be imposed. Death is not a general tribal penalty. It is very rare that death is imposed by tribal custom as the penalty for murder.

240. *Sir Abdul Qaiyum*: Is it not then necessary to encourage the death sentence in order to put a stop to murders? If the sentence is low, such as a fine, or seven years' imprisonment, it not only slackens the authorities in investigating the case, but also the eventual punishment is not a deterrent?—I should not say so, sir. I should say that I have not considered the question very deeply.

*Rai Bahadur Karam Chand*: I have to urge, sir, that the Hindus should be exempt altogether from this Frontier Regulation, because we citizens are not going to commit such crimes as the tribal people.

241. *The Chairman*: Do you mean that a Hindu should not be liable to be tried by a *jirga*, or do you mean that a civil dispute in which a Hindu is a claimant should never be heard by a *jirga*?

*Rai Bahadur Karam Chand*: The law court is quite open to them. My view is that the Hindus should be exempt from the Frontier Regulation.

242. In Baluchistan we were told a Hindu money-lender sometimes finds that a *jirga* will try his case quite fairly and will give him justice. You do not desire the Hindu community to have any part in *jirga* system?

*Rai Bahadur Karam Chand*: The general opinion of the Hindus is against the *jirga* system.

243. Another thing I was told in Baluchistan was this: that sometimes there has been a civil decree, such as a Hindu getting judgment for a sum of money; it is difficult to execute the judgment, he cannot get the debt paid. In Baluchistan when that happens the question is sometimes referred to a *jirga* as to how best the defendant can be made to

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pay the money to the plaintiff. And I was told that sometimes the *jirga* makes a very good suggestion and the money is paid. Does that happen here?—Frequently the *jirga* is asked to give a suggestion as to how the decree can best be executed.

244. (To Rai Bahadur Karam Chand): Don't you wish the *jirga* to do that?

Rai Bahadur Karam Chand: There is a vast difference between the customs of Hindus of Baluchistan and the Hindus of these parts.

## DELHI.

Dated, 22nd November, 1928.

## PRESENT:

ALL THE MEMBERS OF THE COMMISSION (EXCEPT THE RIGHT HON. VERNON HARTSHORN),  
AND OF THE CENTRAL COMMITTEE.

**Mr. H. G. HAIG, C.I.E., I.C.S., Secretary, Home Department, and Mr. J. M. DUNNETT, C.I.E., I.C.S., Officer on Special Duty, Home Department, Government of India.**

1. *The Chairman*: Mr. J. M. Dunnett has come with Mr. H. G. Haig, and I dare say in the course of the afternoon we may conveniently get some information from him also. Mr. Haig, are you Home Secretary to the Government of India?—Yes.

2. That is to say, you are Secretary in the Home department, the chief of which is the Home Member?—Yes.

\* \* \* \* \*

23. Tell me this; I am not quite clear about it myself. The three positions on the Governor-General's Council which by law must be held by persons who have been for ten years in the service of the Crown in India no doubt tend to be held by gentlemen who have not had a career in the Legislative Assembly, because they will probably have been working in the service of the Crown as members of the Indian Civil Service or otherwise. As regards the other members, however, has there, since the Montagu-Chelmsford reforms, been any case in which the position of member of the Governor-General's Executive Council has been filled by a gentleman who has previously been a member of the Central Legislature?—Do you mean one of the three officials?

24. I meant an elected member of the Central Legislature?—(*Mr. Haig*): Mr. Sarma certainly was.

25. Sir B. N. Sarma?—He had been a member.

26. I should have said, subject to your better knowledge, that Sir B. N. Sarma was not an elected member since the Montagu-Chelmsford reforms?—That may be so.

*Sir Sanharan Nair*: He became a member before the Reforms.

27. *The Chairman*: The point is of some historical interest. As I follow it, since the Montagu-Chelmsford reforms came into operation—that is to say, since January 1st, 1921—there has not as yet been a case in which the individual chosen to fill a post on the Governor-General's Executive Council is an individual who had previously been an elected member of the Central Legislature. Is not that right?—Of the Central Legislature as constituted at present, yes.

28. Quite right: of the Central Legislature as constituted under the Montford scheme?—Yes.

29. I think that is rather an interesting fact, because, of course, in the provinces there have been several cases in which a man has become a member of the Governor's Executive Council who has had past experience as an elected member of the provincial legislature. You see what I mean?—Yes. Of course, some of the members who have been appointed have had experience in the legislative councils.

30. What do you mean by "legislative councils"?—The local legislative councils.

31. The local councils—what are sometimes referred to as the provincial councils?—Yes. I think I am right in saying that.

\* \* \* \* \*

43. If I follow you rightly, the general arrangement appears to be that where the Member of Council sits in one House, the Secretary of the department sits in the other House; is that so?—Yes, that is the normal arrangement.

44. Though, as we know, the executive councillor can speak, cannot he, in either House?—Yes.

45. Of course, that is an arrangement which we do not have in England, though it has been suggested sometimes. Could you tell me on that particular point, either of you, whether there is any view you hold as to how that particular arrangement works? Let me suggest one consideration which occurs to one. It might be said, perhaps, that by putting certain Members of the Executive Council solely in one House, namely the Council of State, you tend to increase the authority and importance of that Chamber, whereas if on interesting or important occasions, even though they are members of the Council of State they go and make speeches in the Assembly, you do not produce the same effect. I do not know whether you have any views, either of you, about that?—Of course, it might be argued, on the other hand, from the point of view of the Council of State that they feel that it enhances their position that when a matter affecting, say, the Home Department comes up, and ordinarily the Home Member would be in the Assembly, the Home Member will come to the Council of State and address them himself. That would not be the case under the other arrangement.

46. At the moment the Home Member is a member of the Lower House, and I imagine usually has been?—I think so, yes. (*Mr. Dunnett*): I do not feel that that has actually been the effect. I do not feel that, for instance, the Assembly considers itself any less concerned with Army affairs, defence, or considers itself less concerned with Education, Health and Lands affairs, because the honourable Members in charge of these departments are in the Council of State. Similarly, I do not consider that the Council of State considers its interests in Finance or the Home affairs lessened because the Member sits in the Lower House. I think in actual practice it has not had the effects which you apprehend.

47. I was not fearing those effects; in fact, I do not think the point you make, which I quite follow, is quite the same point as I was raising. I can understand, of course, that the interchange on occasion of attendance makes each of the two Chambers feel that it has got the closest interest in all subjects. I was on a slightly different point, which I think I have seen suggested, that the position, let us say, of the Council of State is one which would be made more influential and important if it was a Chamber which had the membership, and alone had the membership, of certain members of the Executive Council. It is not quite the same point, is it? You see, if I may do what is a very rash thing to do, I will suggest a very rough analogy. Undoubtedly the position of the House of Lords as an Upper Chamber in Britain is rendered more important in part by the fact that some members of the Government, and very important members, are members of that House and of that House alone. If every member of the Government who was in the House of Lords on every important occasion went to make his speech in the House of Commons, I should have doubted whether the importance of debates in the House of Lords would have remained. No doubt Lord Burnham can tell me.

*Lord Burnham*: No; and it is my view that it has been very unnecessarily weakened in that respect of late.

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[Continued.]

48. *The Chairman*: You mean the House of Lords has lost importance?

*Lord Burnham*: Yes. The old rule used to be that the Secretaries of State should be equally divided between the two Houses, and that has not been adhered to.

49. *The Chairman*: At any rate, I gather that you think that the present arrangement is one that upon the whole works well?—Yes, and the difference of function would overrule the different effect of personnel, as it were.

50. Of course, there is a second result which you gentlemen, I dare say, may have sometimes thought of. It is manifest that the occasions when the Secretary may have a leading part to play in debate are considerably affected by the fact that his Chief on most important occasions will invade the House in which the Secretary sits: is not that so?—(*Mr. Haig*): Yes.

51. *The Chairman*: I think when a new Government is formed in England, and the time comes to distribute the Under-Secretaryships, an ambitious young man would rather prefer to go and be Secretary in a House when his Chief was in the other House. However, you think that works well?—I think the system works very satisfactorily here.

52. I hope it is not asking anything invidious or difficult, but I think we should all like to know—I am sure my British colleagues would—as things work out in practice, do the Secretaries to Government, who are members of the legislature, have an important part to play in legislative debates?—Yes, in the Council of State I think they have quite an important part to play, because it is only on comparatively rare occasions that a Member of Council who belongs to the Assembly can spare the time to come across to the Council of State. Therefore as a rule the Secretaries who are sitting in the Council of State carry out their own work.

53. You are a member, are you not?—I am a member of the Council of State.

54. *Sir Arthur Froom*: Honourable Members sometimes come up and take their seat and leave it to their Secretaries to conduct the debate whilst they are in the House?—(*Mr. Dunnett*): On the other hand, I have sat behind the Home Member in the Assembly and I should say that in the Assembly the Member bears the brunt, conducts the debate himself, and Members normally employ their Secretaries in the Assembly on less important legislative business.

55. *The Chairman*: That is inevitable, of course, I wish you would just tell me about the part that is played in the legislature by another section of official representation. As we understand, you get a nominated and official element in the Central Legislature through each province, do you not?—That is so, yes.

56. *The Chairman*: Tell me what the section is. I do not at the moment recall whether it is actually provided in the Government of India Act that there must be such members, or whether it is merely a discretionary use of the power to nominate a certain number of officials. I want to know whether the Government of India Act provides that there shall be such members. I do not think it does.

*Sir Sankaran Nair*: It is not in the Statute.

57. *The Chairman*: Is it one member from each province, or are there in some cases more than one official nominated members?—(*Mr. Dunnett*): I should require to refer to the electoral rules. (*Mr. Haig*): I think occasionally there is more than one official member from a province.

58. Anyhow, they form a rather interesting feature of the official group. What I want you to tell me is this. Do these gentlemen, who sit in fact as nominated members officially representing different provinces, play a significant or important part in the work of the House—apart from voting, I mean?—They play the part expected of an ordinary member. They take a full part in the ordinary work of the House. They occasionally, but not very fre-

quently, are used by Government for speaking on Government measures. I think they play an important part on committees.

59. I was rather thinking of the part taken in the argument of debate. What strikes one, looking at the existing structure, is this, that here you have this element present at Delhi or at Simla from the different provinces, and presumably in pretty close touch with the Governments of the provinces. There must be, I should have supposed, a good many occasions in the course of the session when the views or the interests of a particular province were important and might call for expression. I do not know how far you gentlemen would say in practice that the officials who are nominated to represent the different provinces do take an important and influential part in the discussion?—(*Mr. Dunnett*): Perhaps I may say something on that point. In practice the provincial members keep in close touch with the leader of the House, and the answer to your question is very much a description of the normal practice of the leader of the House. The leader of the House would never show any objection to a view being stated by a provincial member on behalf of his Government. If a provincial Government had a view which they wished to express, the leader of the House would not object. Then, on general legislation which does not necessarily have an interest for one province only, the practice has been that on occasion the leader of the House has asked for assistance from provincial members; on other occasions provincial members have expressed a wish to speak. They have always been encouraged to do so, and these occasions have been frequent on matters like the Land Acquisition Act and so on. The members have intervened in debate, we consider with effect and usefully; the other side of the House may think otherwise. In our view, considerable use has been made of provincial members, and they have been given practical freedom to intervene in debates in the same way as an ordinary member.

60. You see, when one is reconsidering these things it is material to ascertain how far different elements in the existing structure play a useful and effective part, and it does not follow that because a certain number of officials is nominated to represent provinces, and I dare say are constant in attending when their vote is needed, that that is all the part they ought to play. I wanted to know the view of you gentlemen as to how far they do play an important and characteristic part, and I gather you say you think they do: is that so?—I can recall innumerable examples of legislation which had an All-India interest and not a special provincial interest on which provincial members spoke, and spoke freely—subjects as technical as amendments of the Civil Procedure Code and general civil legislation and so on.

61. What you are putting now (though I think it is very useful to know it) rather goes to show that they make a useful contribution, in your opinion, on subjects of general debate; but there is another question which I should like answered, and which is this: Do you consider that they are able to play and do play an effective part as the representatives of their province? I agree they are nominated as officials. After all, if a question arises which particularly affects Burma (a taxation question, let us say; I am merely giving an illustration off-hand) presumably the Government of Burma might desire to have their point of view put forward in debate. Has that happened?—That instance is a little difficult.

62. Take any other one you like?—As an illustration, a proposal of that nature, of course, could be initiated only by Government. It would be Government legislation, and legislation of that nature would be undertaken only after consultation between the two Governments, and I think I may say that normally the two Governments would be in accord.

63. At any rate, I imagine you do not have the



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spectacle in the Legislative Assembly of an official member claiming to emphasise the view of a provincial Government when the accepted or proposed policy of the Government of India might not be exactly in line with it?—I have mentioned an instance of that kind in the memorandum.

64. Would you give me the reference?—It is on page 65 of the "Short Sketch of the Operation of the Constitution in the Central Government."

\* \* \* It is the last sentence of the second paragraph.

66. Yes. I will just read the sentence: "Provincial official members are free to speak and vote as they like, but on occasion may be required to vote with Government. Actually they spoke and voted against Government in connection with the 'provincial contributions.'" Lord Burnham tells me he thinks he recalled instances, in his reading of the Indian Hansard, where they might have spoken critically of the Government of India even though they did not vote?—I cannot recall that.

67. Tell me this, as we are on the subject. It is a matter, I think, of very great importance. What is the accepted view in the Central Legislature as to the way that nominated officials vote? You see, a man may be an official and may be nominated, and yet in his personal judgment he may not always quite agree with the Governmental proposal. Such things have been known.—(Mr. Haig): I think a nominated official is always expected to support Government by his vote.

68. And is the expectation in practice fulfilled?—I am not aware of any instance in which it has not been.

69. I imagine, of course, that in the case of nominated non-officials the position is quite different?—Yes. They have freedom.

70. Now I should like to get your help a little on this subject—the working in practice of the leader of the House and the Government he represents and its policy in relation to a majority which is elected and unofficial and very often critical of Government proposals. The position in the Council of State, is not it, is that out of a total membership of 60, 33 are elected. In the Legislative Assembly you have in fact a membership of 145, and 104 of them are elected?—Yes.

71. What one needs very much to understand, if we are considering the constitutional problem of the Central Government, is how the thing works with so large an elected majority and so comparatively small an element which is officially supporting the Government?—Of course, there are not infrequent occasions when Government is defeated—when Government proposes legislation and is unable to carry it or, more frequently, when a non-official resolution is moved by the opposition and is carried against Government. There are other, legislative, measures (quite a fair number, I think, in the aggregate) which are not really very controversial, and which can be carried more or less by the general sense of the House, if they raise no grave political issue. There remains a certain number of big issues which Government manage to get through by a very small majority. Occasionally, of course, they are beaten by a small majority.

72. You are speaking of the cases where they get them through?—Yes. When Government do get a majority in a controversial matter like that, they probably have had the support of the majority, at any rate, of the nominated non-officials, though not all. It is probably a measure that commends itself to the European group, who number ten or eleven or something like that, and it may be a measure that commends itself to the Muhammadan group. If they can command all that support they can secure a fair majority; otherwise they cannot.

73. The particular reflection that occurs to one when one thinks of the contact of this point of view between the legislatures of the provinces and the legislatures at the centre is this. In the provinces,

though you have got a majority that is elected, the policy of Government is framed in consultation with and is supported by ministers who themselves are elected, and who, presumably, therefore, have a following among the elected members, and therefore, even although the official element is a minority under that arrangement, you may hope to see the policy adopted by the provincial Government generally supported?—Yes.

74. But in the Central Legislature, as you have no ministers, you have no element of that sort in the Government which may be expected to bring along elected support, because the supporters belong to the same group. Do you see what I mean?—Yes.

75. I think what strikes one when one looks at the present arrangement is that the Legislative Assembly has got 104 elected members out of 145, and, as we know, there is a good deal of criticism. Nevertheless, as I read it, the history of the Legislative Assembly here is broadly speaking that the policies that have been proposed have been carried out?—Yes.

76. Is that a correct way of looking at it?—Well, I think a considerable proportion of the policies proposed have been carried out.

77. Instead of saying the policies proposed have been, broadly speaking, carried out, I will substitute a considerable proportion?—Yes. But, of course, Government in making proposals to lay before the Legislative Assembly always try to take account of all currents of opinion. There may be informal consultation beforehand; there may be a committee of the legislature which reports, and on the basis of it legislation is subsequently framed and carried. There are opportunities for Government to keep in pretty close touch with opinion in the legislature.

78. Lord Burnham: Surely if you look at page 80,\* Mr. Chairman, you will find that "the Assembly divided on 431 occasions with results favourable to Government on 239 occasions and unfavourable on 192. In 104 divisions on demands for grants Government was defeated in 56 and won in 48. On Bills 139 divisions went in favour of Government and 91 against. On resolutions and adjournment motions the majority was with Government on 52 and against on 45 occasions." Are those figures correct?—(Mr. Dunnett): Yes, sir. I can give you some figures on the question you are asking about the support in the House.

79. The Chairman: Those figures to which Lord Burnham calls attention on page 81 of the document\* certainly bear very much on the point.—That is the result, sir, but about the method, the position is this, that in the Legislative Assembly a vote of, say, 53 will win the day for Government unless there is a whipping up and a very full House. Now, Government always secures the attendance of its official members, and there is one condition of nomination as a non-official, and that is regular attendance. Therefore we may take it that the Government nominations are normally present, and they are 40. The nominated non-officials do not always vote with us, and we have had several who have always voted against us; but the position roughly is that if Government can get about 15 elected members to vote with them, on anything but an extraordinary occasion Government will win. Is this of use, sir?

80. Yes, it is very practical.—The position in the House is that there is no solid single opposition; there are a series of parties. These parties do not always agree among themselves. Secondly, their party organisation is not completely efficient, and therefore Government has always the opportunity either of detaching one party from the other parties, or of detaching various members from individual parties, and therefore in, say, half the cases the Government has not much difficulty in getting its 15,

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which will make up 53 that will win you the day. That is the rough calculation.

81. I see. Still, the totals to which Lord Burnham calls attention on page 81\* are very striking. I do not know whether there is anything to be said as to whether the occasions on which the Government gets defeated are of equal importance with the occasions when they succeed?—Well, sir, I recognise that in giving these figures which I have just given, I have enhanced the black nature of these figures against Government, because my explanation, I recognise, does mean that on more occasions than the occasions on which we lost, the majority of the elected members was against us, and therefore, if you are looking only at the weight of elected opinion, the figures against Government should be weighted.

82. I quite see that, but I meant something slightly different. I was wondering whether, taking the figures as they stand, and not considering, for the moment, whether the total in a lobby was made up of elected or non-elected people, it could not be said that the Government got its way on the larger part of the important occasions when issue is joined in view of these figures. If so, the explanation must be that though they got defeated on a very large number of comparatively unimportant questions, they get their way on the more important occasions?—Well, in an earlier portion of this memorandum you will find that we have passed 199 Government Bills, and we have lost 9—that is, up to the end of 1927. Only four times has the Governor-General certified; he has only exercised his emergency powers on four occasions.

83. So I understand; that is including a Finance Bill, is it not?—Two Finance Bills.

84. Finance Bills we might, perhaps, deal with rather specially a little later on; but apart from that there seem to be two occasions when there has been certification?—Yes.

85. Can you tell us briefly something about the relation between the two Houses, the extent to which in your opinion the Council of State and the Legislative Assembly may usefully sit together?—The following section deals with that.

86. I know; but summarise it for us.—The two Houses remain apart; they have never sat jointly. The Council of State has, I think, rejected nine measures, other than Finance Bills, passed by the Assembly.

87. Where shall I find that?—On page 81,\* the penultimate sentence of the first paragraph. The two Houses have been at variance on nine occasions.

88. That is not only at page 81,\* but it would also happen, if it happened at all, under section 67 of the Act. That has never happened, has it?—A joint sitting, no. It was once asked for.

\* \* \* \* \*

90. Colonel Lane-Fox: The Assembly, of course, represents 260 millions of people?—(Mr. Haig): Yes.

91. Are there any other instances in the world of one body directly representing so large a number as that?—I do not know.

92. What I wanted to ask you was, is it not as a matter of fact difficult for individual members to be really representative of such an unwieldy constituency? Does that come out in the proceedings of the House?—Yes, I think it is probable. It is difficult to generalise on these subjects, but I think it is probable that the members of the Legislative Assembly are in somewhat less close touch with their constituencies than the members of the local legislative councils. I think it is inevitable owing to the size and scattered nature of the constituencies.

93. And that would naturally be one of the causes of an apparent irresponsibility which sometimes tends to show in the Assembly?—I think it makes them probably more responsive to what you might call the big All-India organisations, such as the Congress, or the Press.

94. Less responsible to the constituencies?—Mainly because, I fancy, local organisations usually do not exist.

95. Because the members are not sufficiently in touch with them?—I do not think really the country is sufficiently developed to have reached that stage yet.

96. But if there was a different system of election, if instead of direct election you had some system of indirect election, then you might get rather more responsible members?—You might certainly have rather closer touch with the electors, but of course they, on the other hand, would be representing some other interests. I take it you mean if local bodies, for instance, were to elect members to the legislative councils or if the provincial legislative councils were to elect to the Assembly. In that case I imagine that there would be much closer touch between the member and the body that elects him.

97. Then his action will have reference strictly to somebody?—I expect so.

98. And I suppose one of the weaknesses of the Government in the Assembly is this very fact of the irresponsibility of the elements in it?—Well, certainly, they are swayed by influences which are very often antagonistic to us.

99. Has the question of the constitution of the Assembly ever been debated in the Assembly itself? Has the question of direct or indirect election come before it?—No.

100. They are quite satisfied with themselves as they are?—I do not know the occasion really to discuss the details of the constitution has arisen until now.

101. Major Atlee: Are there occasions on which all the members of a certain province irrespective of party affiliations act together on a particular question, or are there any sorts of organisations of provincial representatives in the interests of the province?—I should say, not. I seem to remember an occasion in the Assembly when the question of the remission of provincial contributions was up, a matter which to certain provinces was of very great significance and importance, and my impression, I am speaking without the book, is that the provincial members did not take the line which might be considered favourable to their provincial interests but rather stuck to their Assembly grouping. That is my impression. I am speaking subject to correction.

102. You do not know if there were ever meetings of, say, the Bombay members, as we in the House of Commons have meetings of, say, Lancashire members? Do you know whether that takes place at all?—Not as far as I know.

103. Another point is as to getting the time of the House. We see at Home that the difficulty of a minority Government is that if you are a minority Government you cannot get your Bills through because you cannot help people talking them out. Are not your proposals talked out, or is there any closure system, or how do you work it?—There is no closure system as far as legislation is concerned. I do not think we ever had such organised obstruction.

104. You have no all-night sittings as a means of bringing pressure to bear?—I cannot remember one. (Mr. Dunnett): The time for the rising of the House is in the discretion of the Chair.

105. The Chairman: It occurs to me, Major Atlee, even if they had a power in the Government to move what they call the suspension of the rule, apparently if there was a majority against Government they would never succeed in carrying it.

Major Atlee: Yes, and I am wondering how they get through. Is it not your experience that they get clogged towards the end?—(Mr. Dunnett): The analogy with the House of Commons is rather incomplete. For one thing, the whole budget, including the estimates, is limited, I think, to four days, or six days, whereas yours runs to months. Here it is fixed.—(Mr. Haig): So far as the budget is concerned, there is an automatic closure. A certain

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umber of days is set aside and all votes that do not come up by the end of that time pass automatically.

106. What you call a budget we call a supply day. I was thinking of other business.—(Mr. Dunnett): What I am suggesting to Major Attlee is this, that whereas your supply or debates on the supply, I understand, run on for months and the rest of your parliamentary business takes a secondary place, as it were, our supply or our financial arrangements are limited to a few days in the year and the rest of our business is the bulk of the business of the House.

107. How many days do you set apart? Rather less than we do?—Yes. We have two sessions in the year. The budget session runs on from the end of January till the end of March. The other session lasts for three weeks.—(Mr. Haig): Possibly a practical reason which has just occurred to me for the feature mentioned by Major Attlee is this. The members of the Assembly have to come long distances from their homes, and after they have been in session for a certain time, as a rule they are anxious to get back to their homes. Now, if it comes to a test of endurance, Government can go on sitting quite happily with their official members, all on the spot, and could obviously wear out gradually the opposition. So I do not think it would be a practical course to try to organise obstruction on these lines, because Government could really wear them out.

108. But in fact there is no way at present to prevent it?—(Mr. Haig): No. I think not.

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109. Sir Arthur Froom: There was one question, sir, to which you referred, and that is the system in the Central Legislature under which the honourable Members and Secretaries in charge of departments sit in one House or the other. That actually takes away a considerable part of their time. Roughly speaking, we might say that the sessions last for three months in the year, including the Delhi and Simla sessions. Would it be right to consider that has any detrimental effect on the efficient working of the departments?—It must slow up business. Undoubtedly during the session the ordinary departmental business is working slowly, and at the conclusion of the session we generally have a rush of cases which have to be disposed of. But, of course, we manage; we try to get along with all our urgent business. It is a strain.

110. Can you suggest any other system that perhaps might be more beneficial for working?—Personally I value the opportunity of getting contact with the legislature through sitting in it. I think it is valuable for one's own work.

111. With reference to the secretaries, is there any inconvenience suffered from the system of the office of Secretary being held by one individual—I think I am right in saying—for three years only?—That period of three years is extendable to four years.

112. Yes, for instance, I think we have seen a Secretary in the Finance Department turning up as a Secretary in the Department of Education, Health and Lands, and so on and so forth. Do you think that is a reasonable arrangement for the efficiency of any one department of the Government?—Well, of course that rule originated, I think, with the quite proper idea that it is important for the Government that its Secretaries should not lose touch with realities in the provinces and districts, and it was considered that four years was quite enough for one to remain as Secretary to Government and that then he should return to the province. But with the development of more technical departments that possibly does not altogether apply. That cannot apply, for instance, to the Secretary in the Commerce Department, and I do not think the rule in any case is held to apply in the Political Department or Foreign Department.

113. The Chairman: Does it apply now in any department?—Yes, sir; it is the normal rule. Certainly it is the normal rule in the Home Department.

114. I had an impression that this circulation, this interchange between the secretariat and the districts, the range of circulation, the constancy of it was less than it used to be?—Well, as I have said, there are exceptions. Sometimes perhaps the system is worked with a little elasticity, but that still remains the formal rule.

115. Sir Arthur Froom: Have you a system of Permanent staff like you have Permanent Under-secretaries at Home in any department? Have you got the same system obtaining out here?—No, not in the higher ranks. The highest permanent official that we have in the department is the Assistant Secretary.

116. The Chairman: Might I just ascertain one or two matters of fact? Could you tell me how many years the present Foreign Secretary has been Foreign Secretary?—That is one of the cases I mentioned as an exception.

117. Never mind, how long is it?—I think it is probably eight years. I cannot really say off-hand.

118. How long has the present Finance Secretary been in the secretariat?—Well, of course he was the Army Secretary, and before that he was Financial Adviser, so he had been up here for a long time.

119. How long has the Industries Secretary been in the secretariat?—He was Finance Secretary and he is now doing a term as Industries Secretary.

120. Of course it is not necessary to say that there is nothing intended to be in the nature of a criticism in these questions, still less any personal reference, but it is useful to know the facts. I dare say your department can give us a return showing how long the gentlemen now holding posts in the secretariat have spent their life in the secretariat and how far in the field?—Yes.

121. Mr. Kikabhai Premchand: The commercial community is the most influential section in the country. They pay a large proportion of taxes and are likely to supply more stable material in the councils. Would you not therefore have increased representation in the Assembly and in the Council for the commercial community?—Well, that raises a big question, of course, how far you want to base your system on the representation of particular interests and how far on general electorates. I hesitate to express an opinion about that.

122. You would supply a more stable element by giving representation to the several commercial bodies which are not properly represented now? Has there been any occasion when the nominated non-officials were subjected to the influence of Government in recording votes?—(Mr. Haig): I think the understanding is that they are free to express their views.

123. Sir Arthur Froom: Does that obtain in the Council of State?—I well remember a case on the motion connected with the appointment of this very Commission in which a nominated member voted against Government.

124. The Chairman: You mean nominated non-official?—Yes.

125. Why should he not?—That was the question put to me, sir.

Mr. Kikabhai Premchand: I simply wanted to know from the witness, sir, whether any undue influence was used on the non-official nominated members which prevented them from having their own way in voting.

126. Raja Nawab Ali Khan: Mr. Haig, the Central Government is not responsible to the legislature?—No.

127. In the Assembly you have got a majority of elected members?—Yes.

128. Supposing on an issue which is very important from the point of view of Government the Government is defeated, how then would you carry on the Government?—I think the answer is that we have hitherto carried on the government.

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129. But how?—There are these emergency powers. You must remember that some of the occasions on which the Government is defeated are on resolutions which are not binding on Government; Government is not bound to accept the opinion of the Assembly on a resolution. The only matters in which the Assembly's view is primarily decisive are finance and legislation, and, of course, there are powers which are used as a last resort to secure supply and legislation if Government think that the issue is of sufficient importance to justify their use.

130. *The Chairman*: You pointed out the fact that there is reserve power in the head of the executive to secure a financial or legislative provision which is thought to be essential if there is an adverse vote. Do you consider that the existence of that power on the whole tends to make the opposition more careful, or more careless, as to how they should vote?—It is difficult to answer that question, sir. I think it is a natural tendency in human nature, if a measure is one which is felt to be salutary but at the same time unpopular, to vote against it, relying on Government to secure it. We cannot ignore that possibility. On the other hand, it is not regarded as a normal course that the Assembly should try to drive the Governor-General to certify; I do not think that that is really their normal attitude.

131. *Sir Hari Singh Gour*: In answer to Mr. Kikabhai Premchand you said, Mr. Haig, that it is desirable to have a stable element in the legislature by having larger number of commercial representatives?—The question was whether this would not be more stable.

132. Not that you are in favour?—I did not express an opinion on that.

133. As regards nominations, you said that the nominated members should have a free vote, the only condition, as Mr. Dunnett pointed out, being that they should be regular in their attendance. But are you not aware that the nominated non-officials feel that if they do not ordinarily support the Government they run the risk of not being re-nominated by Government?—There are nominated members who have consistently voted against Government.

134. You are apparently talking of representatives of special interests. Apart from the representatives of special interests, the other nominated members have as a rule supported the Government?—Yes, they have.

135. I think you will concede that there is a feeling in the minds of the nominated members that if they consistently vote against Government the Government would not perhaps re-nominate them?—I think the nominated members are persons who are generally in sympathy with Government.

136. Is it not a fact that under the Government of India Act, section 43-A, the Governor-General may at his discretion appoint the members of the Legislative Assembly council secretaries?—Yes.

137. Did you ever attempt to put this provision of the Government of India Act into force?—(*Mr. Dunnett*): Sir Hari Singh Gour, you are aware of the debate that was started on the motion of Mr. Spence, I think in 1922, and the feeling of the House in fact was decisively against the appointment.

138. Do you know the reason why?

*The Chairman*: You yourself can explain, Sir Hari Singh Gour.

*Sir Hari Singh Gour*: The feeling, sir, was that the council secretaries would be merely parliamentary secretaries, and the Government said, "We are not in a position to appoint parliamentary secretaries who will have any initiative of their own. They must act under the orders of the Member of the Department concerned."

*The Witness (Mr. Dunnett)*: On that occasion the Home Member said that they wished to test the feeling of the House. The Government did not give a lead and the proposal was really broken by Sir Sivaswamy Iyer and Mr. Ginwala, who gave a number of reasons against the proposal. Need I trouble you in giving those reasons now?

*The Chairman*: No. We will look at the debate ourselves. Section 43-A says that council secretaries shall discharge duties in assisting the members of the Executive Council. I have not clearly grasped what is the nature of the work which the section may be supposed to have contemplated. I am not suggesting whether it is a good or bad plan.

139. *Sir Hari Singh Gour*: I am coming to that point, sir. Apart from the motions by private members of the legislature, did you at any time during these three sessions of the Legislative Assembly move a motion to test the feeling of the House as regards the desirability or otherwise of appointing council secretaries in pursuance of section 43-A?—(*Mr. Dunnett*): I am not aware if Government made a motion. We made no motion, but I do not wish to be interpreted as saying that we were not in touch with the feelings of the House, that the leader of the House was not in touch with the leaders of parties to ascertain what the feeling was.

140. Can you give a single instance when the leader of the House asked any of the party leaders whether they would like to have council secretaries?—My own recollection is that he had conversations with the leaders of the parties on this question and that he was kept in touch with the feelings of the House.

141. If you hear the next question you will perhaps modify that answer. You remember that the Legislative Assembly has been pressing upon the Government during all the three Assemblies for the appointment of advisory committees attached to the Home Department?—No, sir, that is not my recollection. My recollection is that on the last occasion I was in the House we did not ask for a Home Department committee. We explained our difficulties, and Sir Alexander Muddiman said that if it is the desire of the House to have a committee in the Home Department we shall offer no opposition.

142. But then the motion was carried?—The motion on that occasion was a motion by Sir Charles Innes for a committee in his own department and incidentally the question of a Home Department committee came up, and it was really left to the wishes of the House. We did say that we had no desire to ask for it ourselves.

143. May I remind you that actually a committee of the Home Department was elected by the Legislative Assembly and I was a member of that committee, but that the Home Department never called a single meeting of the Home Department committee?—My recollection is that that action followed on failure to get members to attend the previous sessions.

*Sir Hari Singh Gour*: In the first session of the Assembly it was urged on behalf of the Government that as the Home Department has to deal with a very large number of confidential matters, and very urgently too, the Home Department committee cannot function, and consequently the Home Member opposed the formation of the committee. The resolution was carried in spite of the opposition. The committee was appointed, but no meetings of that committee were ever held.

*The Chairman*: Would it not be a convenient course if you could give reference to the printed debates?

144. *Sir Hari Singh Gour*: Yes, sir, I will do that. As regards the members of the Executive Council, will you kindly let me know what are the various departments which are in charge of the Indian members, and have been in charge of the Indian members, ever since the inception of the Reforms?—(*Mr. Haig*): The Law member is in charge of the Legislative Department. . . .

145. Whereas Law and Justice are in charge of the Home Member. Are the other two Indian Members not in charge of minor departments and some of them transferred departments?—I should certainly not describe them as minor; they are extremely important departments.



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146. Was there any resolution in the Assembly to the effect that portfolios should be changed from time to time, placing Indian Members in charge of those portfolios which are under European Members?—I have no recollection.

(Mr. Dunnett): There was a much more serious resolution in the Council of State. There is no portfolio in the Statute; it is a business arrangement made by His Excellency the Governor-General. There was a motion in the Council of State that the rules and orders by which portfolios were allotted should be made or framed, I think, by a committee of the House or in consultation with the House. The Council of State certainly wished to take over the control of the distribution of portfolios.

147. *The Chairman*: Was the resolution carried?—No, sir.

148. *Sir Hari Singh Gour*: In our House it was carried. As regards the Legislative Assembly, there have been complaints ever since the first Assembly that portfolios should be changed from time to time so that Indian Members may be equally acquainted with the archives of the Central Government alongside of the European Members.—I cannot recollect whether any resolution was moved.

149. *The Chairman* (to Sir Hari Singh Gour): It is important to know. Is it your recollection that there has been such a resolution?

*Sir Hari Singh Gour*: That is the complaint of the non-official members. I will give you the exact account. In the first Assembly there was a cut moved, and on that cut there was a discussion . . .

*Mr. Dunnett*: I take it there was no resolution.

*The Chairman*: I now understand that Sir Hari Singh Gour intended to refer to a debate on a cut; there does not seem to be any resolution.

*Sir Hari Singh Gour*: No, there was no formal resolution; the question was raised on a cut.

150. I think it was a convention that was established with the introduction of Reforms that of the six Members of the Executive Council three should be Indians and the other three Europeans. Was it the intention that Indian public men in touch with public life should be appointed so that they may inform the Governor-General and his Council of the feeling of the people of the country?

*The Chairman*: May I suggest that though the matter is a very fair one for comment, it is difficult to make it into a question and leave the two Secretaries to answer it because they cannot know the intentions, not, I think, anywhere expressed, of the framers of the Constitution. There is one point of fact which has been brought out, namely, that there has not been a case as yet of any elected member of the Central Legislature being appointed a Member of the Viceroy's Council. That is one way of putting your point.

156. *Sir Hari Singh Gour*: You have very intimate acquaintance, Mr. Haig, with the affairs of the Council of State. Do you not think that the Council of State as a body is unpopular with the people?—I see statements made to that effect in the press, but I cannot say that I accept them.

157. There have been cases where the members of the Council of State migrated to the Assembly?—I think there is also the reverse process.

162. Do you think that the Government as at present constituted can face with equanimity the frequent defeats in the Assembly?—It depends on what estimate one forms of the defeats. You mean the moral effects?

163. Moral as well as administrative?—I think the answer is very simple. We are able to carry on under the present system.

164. Do you not think that if Government is too frequently defeated, the public outside would consider that the resolutions passed in the Assembly are mere debating subjects, and would not this reflect on the

attitude of the Government?—I think that defeats in the Assembly have possibly rather a discouraging effect on our supporters in the Assembly; but whether they have far-reaching effects outside I am very doubtful.

165. Do you think that if ministers from among the elected members are appointed as Members of the Viceroy's Council that would really solve the difficulty and secure a majority for them? If from among the parties in the Assembly ministers are appointed do you think that those parties will subside or will hold together to support the ministers?—It depends on the policy of the Government of India, whether it emanates from the Assembly; if it does not, of course the popular ministers would find it difficult.

166. Supposing that the Government of India is made responsible to an elected Assembly, what do you think would be the position of Government? Would it become very difficult under those conditions?—Do you mean if the whole Government of India is responsible to the Legislative Assembly?

167. Yes?—I think it is a little difficult for me to express an opinion; but there are obviously certain subjects, such as defence, which is even mentioned in the Nehru Committee's report, which it would be very difficult to place under popular control.

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169. *Sir Zulfikar Ali Khan*: In answer to Sir Hari Singh Gour, when he put the question whether the Upper Chamber was unpopular, you stated that in certain cases it was?—No; I did not accept that view.

170. May I know if you are aware that in all foreign countries practically, in Europe, America, France and other places, there are two Chambers? Do you think that under the present conditions a second Chamber is necessary in India?—I think so. I think that the present system of having the Council of State has worked well.

171. Do you think that the present period of the lifetime of the Assembly, viz. three years, is too short?—I have not considered the matter. From what point of view do you mean?

172. From the point of view of the difficulties connected with elections and also from the point of view of knowledge to be gained by the members for doing their work?—Possibly four years might be more suitable; but I have not considered the point.

173. *The Chairman*: I am very much interested in this matter which is raised. Might I just be allowed to make this observation? You know perhaps that in England we have shortened the maximum life of Parliament now from seven years to five years, though that was done in connection with the Parliament Act which puts restrictions on the powers of the House of Lords, and I do not think you will find in England now any widespread opinion or any opinion worth speaking about in favour of a still shorter life for Parliament. I wonder how those who have got practical experience of the working of the legislature here will think of the three years' life?

*Sir Hari Singh Gour*: The first year of the Assembly is spent in studying the problem; the second year is utilised for launching Bills, giving notice of resolutions, etc. The Bills may not be introduced at all; they may be crowded out or they may be postponed for the purpose of eliciting public opinion. In the third year the Assembly is dissolved and the members will be busy in going to the polls.

174. *The Chairman*: I rather thought that that might be the view reasonably entertained in some quarters. Would you tell me this: so far as things have gone on in the Central Legislature, is there a very great change in the personnel between one Legislative Assembly and another?

*Sir Hari Singh Gour*: Yes, so much so that in the second Assembly there were only eight or nine members who belonged to the first Assembly.

*The Chairman*: I am not sure whether the implication of that question and the answer is quite obvious.

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[Continued.]

Of course if it could be said that at the end of three years when an election is held what happens is that the same set of people come back again, that may perhaps be an argument for extending the period; but if even in three years the electorate thinks that they should have a different set of people, that may be an argument for not making the period too long.

*Colonel Lane-Fox*: The changes in the first and second Assembly might be due to the non-co-operation movement.

*Sir Hari Singh Gour*: The survivors of the first Assembly in the second Assembly were only eight.

175. *The Chairman*: Colonel Lane-Fox is right in saying that the second Assembly is not a good test, as there was a change due to the non-co-operation movement; but take, for instance, the second and third Assembly: what is the result?

*Sir Hari Singh Gour*: There are only three or four members left as survivors of the first Assembly, and if we leave out our Muhammadan brethren who come from special electorates, those who come from the joint electorates are only two, myself and Mr. Neogy.

176. *Dr. Suhrawardy*: What about the Swarajists?

*Sir Hari Singh Gour*: They form a *bloc*. I am talking of the people of the first, second and third Assembly.

177. *The Chairman*: We may pass from personal experiences to the real question, the question raised by Sir Zulfikar Ali Khan. It is a purely general point whether the experience goes to show that the present life of the Assembly is too short. I rather gather from you, gentlemen, that some of you rather feel that it is too short?

*Sir Hari Singh Gour*: Yes.

178. *Dr. Suhrawardy*: The anomaly is that the Council of State has life for five years and the Assembly for three years. This practically excludes the members of the Council who wish to stand for the Assembly, as they cannot stand for election to the Assembly without resigning their seats in the Council of State.

*Sardar Shivdev Singh Uberoi*: Any one can stand both for the Assembly and the Council of State, and if he is elected in one he can withdraw from another.

179. Is there any rule prohibiting the appointment of an Indian as a Home Member in the Government of India?—None at all.

180. Would you please tell the Conference whether there has ever been a Sikh Member of the Executive Council of the Viceroy either during the present Reforms or during the previous Reforms, that is, the Minto-Morley reforms?—I do not think so.

*Dr. Suhrawardy*: During the Minto-Morley reforms there was not also a Muhammadan member.

181. Arising out of the question put to you by the Chair, may I ask you if it is not a fact that the emergency powers exercised by the Government have made Government less zealous in putting up a strenuous fight against the Opposition?—I should certainly say not. The Government is straining every nerve to secure the support of the majority and is most reluctant to use the emergency powers.

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186. *Rao Bahadur Rajah*: Will you kindly tell me whether any member of the depressed classes was either elected or nominated in the first or in the second Assembly?—(*Mr. Dunnett*): I think there was none.

187. There was also none in the old Imperial Assembly?—I think that is true.

188. May I take it that there was none in the old Imperial Councils?—I think that is correct.

189. And the main object of nomination, I understand, is to adjust inequalities?—Yes.

190. In 1927 a member of the depressed classes was nominated to the Assembly to represent that community which forms nearly one-fifth of the population of this country?—The figure one is correct. I do not know about the percentage.

191. *The Chairman*: \* \* \* It is a fact, is it

not, that though there are so many members of the depressed classes in various parts of India, that there has been only one nominated member in the Assembly to represent them?—Yes, sir.

*Rao Bahadur Rajah*: That is exactly my point, that such a vast humanity like that is represented in the Assembly by one member and such a thing could be found nowhere else in the world.

*The Chairman*: You have a larger constituency than any one in the world.

*The Witness (Mr. Dunnett)*: If you are interested, sir, there is of course an explanation for that. I wish to guard against any possible misapprehension on that score. The fact of the matter is that if you give more nomination, you will have to increase the elected members and have to revise practically the whole composition of the House. As you are aware, sir, the composition of the Assembly is based on provincial quotas, and the proportion of elected and nominated members is fixed. If we had given more than one nomination on that occasion, we would have had to increase the elected seats, and then we would have got in addition difficulties of distribution of seats between provinces, the Assembly being constituted first by allotting seats to the various provinces and so on.

192. *The Chairman*: May I mention in reference to what Mr. Dunnett has said what the provision of the Statute is? These things of course are well known, but still even people who live under the law do not always know exactly what it says. The Statute says that the Legislative Assembly must contain 140 members as a minimum. In fact, as we have heard, it is now 145. But the point is that there is a further statutory provision that at least five-sevenths of the total number of members, whatever the total number is, must be elected. And I gather, Mr. Dunnett, your point was that supposing that you were, therefore, to increase the number of nominated members, as for instance in the direction which was suggested, the result would be that in order to comply with the law you would have to increase the total number of the House?—Yes, sir.

193. Otherwise the five-sevenths rule would be broken?—Yes, sir.

194. That is not in itself likely to give complete satisfaction to the view Mr. Rajah is largely representing. You will agree, I, am sure, it is a poor answer to a number of people who feel unrepresented to say that if you want to be represented properly, I shall have to increase the number of members of the House?—If the action of Government is criticised, sir, I would like to amplify my statement.

195. We are not attacking the Government. We are only pursuing the truth?—The membership of the Assembly was fixed primarily by allotting a certain number of seats to provinces, and, therefore, we had to deal with all applications for increase bearing that in mind, and as soon as you start to increase the elected members you have got to put the whole thing into the melting-pot again and start raising the relative allotments to each province. In the second place, the Joint Select Committee of the Houses of Parliament laid it down that there should be no alteration for ten years. In these circumstances, when this claim to which Government was far from hostile, to which indeed it was very favourable, came up, we gave what we could. It is unfortunate that we could give only one seat, but for these two broad reasons our hands were tied and we could not go beyond one.

196. *The Chairman*: I think, Mr. Rajah, the witness has answered your question very frankly and fairly. (*To the Witness*): You said two things. One thing was that the claim put forward for representation by the depressed classes was one, you thought, on which Government looked with favour, and you said secondly, I think, that it was unfortunately the case that at the time and in the circumstances you could only find room for one member. I take that to mean that if fortunately

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there were more seats available for being fairly distributed, you might think that it was not unreasonable to help forward a larger representation of the depressed classes?—My recollection of the papers, sir, is that if Government had had more at its disposal on that occasion, it would have given more.

197. So that if the Conference could enlarge the Assembly so that it was rather more than the present composition of the House you know nothing from the point of view of the Government which would resist the idea that the depressed classes should have fuller representation?—That is what I have gathered from the past action of the Government, sir.

198. *Sir Hari Singh Gour*: What about the women of India? Does that reason that the ratio between the nominated and elected members cannot be discharged because one more depressed class member cannot be nominated to the Legislative Assembly hold good for not nominating a woman member

to the Assembly in spite of the resolutions passed?

*The Chairman*: That is a wholly different point. I do not know whether you, Mr. Dunnett, are in a position to give us any information as to the reasons why or why not, or the view of the Government on that point. It is suggested that there is nothing in the law to prevent a woman being nominated?—Well, sir, on that I am afraid I will have to take refuge behind a technicality. I have already spoken rather freely on the subject. The fact of the matter is that nomination is not a thing which is in the hands of the Government. It is not done by the Governor-General in Council. It is done by His Excellency the Viceroy.

*Sir Hari Singh Gour*: There is the resolution of the Legislative Assembly, sir. If only the women were present here to-day, they would have said a lot. In their absence I could only say this much.

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## DELHI.

Dated, 23rd November, 1928.

Morning.

PRESENT:

ALL MEMBERS OF THE COMMISSION AND OF THE CENTRAL COMMITTEE.

**Mr. H. G. HAIG, C.I.E., I.C.S., Secretary, Home Department, and Mr. J. M. DUNNETT, C.I.E., I.C.S., Officer on Special Duty, Home Department, Government of India—continued.**

1. *The Chairman*: I think you were furnished with this note of some aspects on which we should like your help?—(*Mr. Haig*): Yes, sir.

2. Let us start with the first point, which is a very important one. It has to do with the subject of Law and Order, and I will, for the purposes of clearness, state the present position and indicate two suggested lines of alteration, in order that we may have your view as to how the suggested alterations will work. The present position, as I understand, is that Law and Order is a provincial subject?—Well, sir, it is not exactly put in that way in the Devolution Rules. It is not in those exact terms.

3. Let us put it in the right terms, then?—Administration of justice, including constitution, powers, maintenance and organisation of civil and criminal jurisdiction within the province, and police, are definitely put down as provincial subjects. That is at page 205.

4. Yes. If I look at the Devolution Rules, which in the red book at page 200 begin with a list of central subjects, and at page 202 begin with a list of provincial subjects, I shall find among the provincial subjects, shall I not, No. 32, Police, and No. 17, Administration of Justice, including constitution, powers, maintenance and organisation of courts of civil and criminal jurisdiction within the province, and then No. 39, Prisons. Those, I think, are the sub-heads, are they not, of provincial subjects that are sometimes, for convenience, referred to as Law and Order?—Yes, sir. The only point I wanted to make is that under central subjects we have No. 30, criminal law, including criminal procedure.

5. *Sir Arthur Froom*: And 31.—And 31, the central police organisation.

6. *The Chairman*: Yes. Then as that works out at present, as I follow, the recruiting of the police force that you find in a province, the organisation of it as you find it in a province, the paying for it, or at least voting the grants to pay for it as you find

it in a province, and the use of it as you find it in a province, are all things that are done from the province and not from the centre?—Yes.

7. Then when one says that Law and Order, if we may use that expression, is not only a provincial subject, but at present is a reserved subject, what one means, I think, is that it is not included in the schedule printed on page 209 of provincial subjects for transfer?—Yes.

8. It follows that as it is not transferred it remains reserved?—Yes.

9. That is the present position. And, of course, a very important subject in the present constitutional inquiry is the question whether that position as regards Law and Order should continue or whether it should be changed?—Yes.

10. Now it seems to me up to the present that the suggestions for change broadly speaking take one of two forms. There is the suggestion that this subject of Law and Order should remain provincial, but should pass, as transferred subjects have already passed, into the control of a minister who is answerable to the provincial legislature. That is one suggestion. Another suggestion which is made about it, again expressing it in quite general terms, is that there might be a change in the present position, but that the change should take this shape, that Law and Order should be centralised. Well, I think what would be very useful to the Conference would be to know from you, and from Mr. Dunnett if he wishes to add anything, how either of those suggested alterations might be expected, as a matter of working, to affect the central administration. Which would you think it convenient to take first?—Perhaps we might take the suggestion of Law and Order as a central subject.

11. I think so, yes. For the moment we might take it rather broadly, not taking the smaller points, but let us have your help as to how it would affect the working of the constitutional machine.—The first point that strikes me about that is to what

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extent is it contemplated that the Central Government should really administer this subject in a direct way. India is a vast country, of vast areas and populations, and any scheme which contemplated a Government sitting in the centre really directly administering the forces of Law and Order would be, I think, impossible. I take it that the suggestion really is rather that the Central Government would employ in the provinces agents with very wide powers; in other words, that it would be something like the system that prevailed in a Lieutenant-Governor's province before the Reforms, when the Lieutenant-Governor was not in a position of such independence as the Governor in Council now is in relation to the Government of India, but at the same time he had full authority to deal with his local problems, and to administer the forces under him: it merely meant that he had to refer more questions, perhaps, of policy and of detail to the Government of India. Would that be the kind of idea contemplated?

12. Well, it is a very natural question for you to ask. Those, or most of those, who have made this suggestion to us have not, I think, worked it out in much detail, but let me suggest two or three compartments which have to be analysed. You have mentioned one. You have mentioned the actual directing head, and you point out that the day-by-day work of the police under orders given to them in view of special difficulties or emergencies could not, as a matter of practical arrangement, possibly proceed from the secretariat outside this building. That is quite plain. There are, however, one or two other important heads. There is, for instance, the financial side. Not always but generally speaking one would imagine that control, or at any rate ultimate authority, would be found in the same centre as financial provision?—Yes.

13. Another important part of it, I should have thought, is not so much the directing of what the police should do, but the authority which sees that they are efficient, by inspection or the like, or which lays down the broad principles on which they are recruited?—Yes.

14. There seem to be those three branches, are there not, when we consider the way in which a police force might be organised and controlled?—Yes.

15. There is first of all the organising of it and retaining its efficiency; there is secondly the paying for it; and there is thirdly the directing of it as an agency for preserving the peace?—Yes.

16. Those seem to me to be the three big things; do not you think they are?—Yes.

17. I do not know whether, with that suggestion in your mind, you can help us a little further. You have mentioned the third, that you could not possibly have, as a practical matter, directions from Delhi or Simla?—No.

18. That is clear, even in the little island I come from. The Metropolitan Police, it is true, is directed from the Home Office, but it is only in a limited area, around Charing Cross, and all the other police forces of England, as you know, are forces which are really directed locally?—Yes.

19. Now, what about the centre as the place which secures that the force is efficient and is recruited on proper principles?—Yes. That is, the centre could lay down certain principles for the organisation of the police forces in the provinces, could, through reports received, satisfy itself that the force was reasonably efficient and adequate in numbers for its work; but I do not myself contemplate that it would be possible to have anything in the nature of inspecting officers going round. I do not know whether anything of that sort would be contemplated.

20. I see that difficulty. At present the Inspector-General of Police in each province is an extremely important person, and he is, of course, a provincial authority?—Yes.

21. I gather you would feel some difficulty in turning the Inspectors-General of Police of the

different provinces into central officials?—Well, I think that you must have a superior authority in the province under whom the Inspector-General of Police would be working; that is to say, he could not work directly under the Government of India, and must, in effect, work under an officer like a Governor.

22. We had better not go into the financial side of it in detail now, because it is part of a larger question; but obviously there is that difficulty too. I suppose those who suggest the centralisation of Law and Order may be contemplating that the payment for Law and Order would proceed from central funds. Do you think so?—I think it would have to in any scheme of centralisation. After all, if the Central Government are to dictate the cost of the police, they must find the finance.

23. That breaks up a little of the ground and helps one to see some of the difficulties. Do you feel able to say something about the other suggestion, so far as the central administration is concerned? I am not proposing to ask you what your own opinion is, as a matter of wise policy, on the question whether Law and Order in a province should be transferred. We have already had some views—conflicting views—about that, and we shall have more; but what I mean is this. Suppose for the sake of argument that Law and Order is no longer a reserved subject, but is transferred and is under a provincial minister: can you tell us, from your knowledge of the machine, the directions in which that would affect the central administration?—At present I think the Central Government, in matters of Law and Order, acts on the provinces in two ways. In certain matters it lays down general lines of policy which the provincial governments are expected to follow, normally, of course, after consultation with the provincial governments; and in the second place the Central Government is kept closely informed of the administrative incidents which arise rather frequently in India, and they frequently make such suggestions as they think are called for, suggestions which the provincial governments, unless there was some very clear reason to the contrary, would naturally accept. I do not know to what extent that degree of direction and control which I should consider as essential could be maintained if the Central Government were dealing with a responsible executive in the province.

24. Will you explain to us a little more fully what happens now? I do not want you to take any particular instance at all, but will you explain the usual course followed in the ordinary way by the existing mechanism? Let us suppose that in some province or other difficult questions arise or are threatened which may call for the effective intervention of the police. It may be due to communal feeling or to some special course of events or what you please—something, I mean, which is not merely the ordinary day-by-day trouble. What in fact happens now? As things are Law and Order is a reserved subject, and there will be a Member of the Governor's Council (he may be a European or he may be an Indian) who is in charge of the subject?—Yes.

25. How far is there communication between the provincial Government or that Member and the Government of India?—There is very free communication on any matters of importance.

26. Does the communication from the centre as a rule take the form (no doubt after consultation) of giving orders, or does it take the form merely of offering counsel?—Usually the latter; in fact, I cannot remember any case in which the Government of India actually had to give orders in the kind of matter to which you are referring.

27. I can quite see that it is useful, and may be very important, to have the advice which can be given from head-quarters, but I am not clear at the moment how far the Central Government can be said by that means to be influencing the action of the police in a province?—I think where necessity arises it can influence it very considerably, and there is always in reserve the power of giving orders; but it



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is not really necessary to employ that power, because everybody understands the position. If a strong suggestion were made to the local Government, they might write back and say they did not like it, but if the Government of India persisted they would have to do it, and they recognise that.

28. I should like to point this out to the members if the Conference. We have all got this red book\* in front of us. The thing really turns on this. Rule 49 of the Devolution Rules (page 199, bottom of the page), which is headed "Limitation of control," says: "The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall in relation to transferred subjects be exercised only for the following purposes," and then follow some purposes. The effect of Devolution Rule 49, therefore, is that once a particular subject passes from the reserved to the transferred field the superintendence, direction, and control exercised over that subject by the Central Government are very substantially relaxed: is not that so?—Yes.

*The Chairman:* My colleagues will remember the reference in the Rule to the powers of the Governor-General under the Act is a reference to section 33, which is printed on page 67.

*Lord Burnham:* It is on page 86 of the Government of India Memorandum.† Page 86 deals with the relations with provincial governments.

29 *The Chairman:* It looks as though this was the result, unless the Devolution Rules were recast: that if you were to transfer Law and Order in a province to ministerial control, then, except for the particular purposes mentioned in Devolution Rule 49, the superintendence, direction, and control of the Governor-General over the subject would cease?—Under the existing Devolution Rules, yes.

30. It is perhaps convenient to mention (I dare say my colleagues see it) what the exceptional cases are in which, under the Rule, there may still be superintendence, direction, and control from the centre, notwithstanding that the subject is transferred. They are "(1) to safeguard the administration of central subjects." To give an example, supposing the railways were so badly guarded that serious riots were likely to break them up, then apparently, the Central Government would still, under that, be entitled to superintend, direct and control the police force, even though it was transferred?—Yes.

31. That would be an example, would not it?—I think so.

32. Secondly, to decide cases arising between two provinces, when they do not agree. I can imagine a dispute between two provinces as to which of the two police forces was really to blame because of some trouble on the border between them. That would be an instance?—Yes.

33. Or "(3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor-General in Council under, or in connection with, or for the purposes of" one or two sections of the Act. Those would not have any special application here, would they?—I do not think so, except that I think that last clause has reference to the services.

34. That seems to be the interesting point, then, from the point of view of the Central Government. I suppose the observation you made just now was intended to call our attention to this, that if there is a recasting in this respect of the Constitution it might be accompanied by a revision of the terms of Devolution Rule 49?—I wanted to emphasise that point. I find it difficult to contemplate a system under which, whatever may be the form of the provincial government, the Central Government should not have pretty free powers of control in matters of Law and Order in the last resort.

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\* The Government of India Act.

35. *The Chairman:* \* \* \* It has been pointed out at some of our sittings elsewhere (I remember a member of the Central Committee pointing it out) that if you are considering the transfer of Law and Order from a Member of the Governor's Executive to a minister, it is material to think out what effect that might have if, as unfortunately sometimes happens, the forces of law and order require to be supplemented by the military?—Yes.

36. Has that got a bearing on this?—I think it has a very definite bearing. After all, the military are in this country the reserve force for the maintenance of law and order, and an uncontrolled policy by a provincial Government might very seriously affect the demands made on the military.

37. This is the sort of way in which it was suggested, I remember, in one or two questions in the provinces. It was said: "As things are, and as long as Law and Order is a reserved subject, it is not very difficult to secure without friction the co-operation, in case of need, between the police and the military."—Yes, that is so, sir.

38. Because the Army is a central subject, and its organisation and distribution, therefore, can be controlled by the centre; and as long as the Police is a reserved subject in the province, the power of the centre to superintend, direct or control the police in case of need enables the two forces to be co-ordinated?—That is perfectly true.

39. That is the sort of way in which the question was put. I think it was carried a little further by one or two questions; it was suggested that, supposing the police force in a particular province became inefficient, or supposing that the legislature in the province was rather disposed to take the view that money ought to be saved on that force, there might perhaps arise a situation where the military arm was called upon sooner than it ought to be?—That is very possible.

40. I am not making any criticism myself; I am merely trying to summarise the sort of difficulty that might arise.—That is the sort of problem which would undoubtedly arise, I think.

41. What strikes me about it, and what probably strikes all my British colleagues, is this. India is a country in which the army is not only here for purposes of external defence, but is in fact a potential reserve that in extreme cases may be useful for the purpose of restoring order, or preventing outbreaks of an extensive kind?—Yes.

42. And therefore the relation between the police arm and the military arm may perhaps be more intimate in a country like India than it is, for example, in a country like England?—Yes.

43. That is the thing that one has to consider?—Yes.

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45. *Lord Burnham:* I should like to know from you, Mr. Haig, how far the general powers of the Governor-General in Council set out in section 59, of taking over, where necessary, the administration of any part of India, would override any limitations in case there were transfer of Law and Order to a responsible minister. That would still remain, of course?—Yes. I suppose that section could be used for superseding the administration? I think it probably refers only to outlying districts. I imagine that is its intention.—(*Mr. Dunnett:*) The sort of case to which this applies is such as the creation of this new province here, the new province of Delhi.

46. *Lord Burnham:* Well, it says "any part of British India." I have no doubt you are right; I am only seeking light.—(*Mr. Haig:*) I do not think it is intended for that purpose. That is my impression.

47. Then, of course, I take that as being an answer. I should not have thought, as a matter of interpretation, it was so. The point of the question is, then, there would be at present no power, except for the reasons specified, in the Governor-General in Council

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to overrule executive decisions as to Law and Order, supposing it became a transferred subject?—(Mr. Dunnett:) In the course of this discussion, in previous suggestions that have been made, the suggestion has been made that you can take the risk of mal-administration of Law and Order in the provinces provided you retain the present power of resuming the temporary administration of these subjects, as has been done in transferred departments.

48. Yes, but that is in the local government?—Yes.

49. I understand that. I was rather dealing with the power of the Governor-General, just to try to bring out the provisions of the Act.—May I suggest, Lord Burnham, that the intention of people who argue on those lines is: Take the risk, and when things get bad, then, on the analogy of the temporary administration of transferred subject for a time, resume in the province the administration of Law and Order into the hands of the Central Government in a manner similar to the section you have quoted.

50. Of course, the obvious danger is that a whole region might be in a blaze while you waited for these curious processes?—Yes, but I think the answer to your question is that constitutionally that is a possible device.

51. *The Chairman*: I agree with Mr. Dunnett's answer that constitutionally that is perfectly possible. But the thing that has to be considered is not whether there is a constitutional power to do it, but whether, having regard to the subject-matter and to the nature of the situation, which is assumed as calling for the exercise of that power, it is a very practical method. Is not that so?—I would myself be inclined to doubt whether, at least in these circumstances, it is possible to separate the administration of Law and Order from other provincial administration, and I would be inclined to suggest that if anything of that nature is possible, it would mean the total resumption of the whole provincial administration. I doubt whether, in such circumstances, you could resume the administration of Law and Order only; that is to say, I would be inclined at present to think that that device would mean, in effect, a temporary suspension of the provincial constitution *in toto*.

52. *Lord Burnham*: As in the case of Bengal recently?—That was transferred subjects. There the separation is possible; but I am suggesting that in such circumstances as you contemplate, Lord Burnham, the resumption of administration or withdrawal of administration of one subject, Law and Order, would not be possible; it would probably require a suspension of the whole provincial constitution.

53. Even under the best arranged system of agency, or some other device for the practical working of Law and Order as a central subject, do you think it would meet the case in what is said to be (in many parts of India) a very excitable country: that is to say, would not the occasion rather outstrip the machinery at times, rather get beyond the machinery?—I am inclined to think so.

54. *Colonel Lane-Fox*: Might I follow that point a little further, about what would happen in case of Law and Order not being administered in what seemed to the Central Government a satisfactory way in a province. You suggested that the Rule might be strengthened, re-cast, so that the Central Government might be given power to deal with a situation of that sort?—(Mr. Haig): Yes.

55. Well, that would not be enough by itself; but could not the situation be met by giving the Governor of the province increased power to deal with that particular subject in a case of emergency, so that then the Central Government would have to deal with him and his executive without actually overthrowing the whole constitution?—Yes, I think in practice that would be the way in which the control would probably be exercised.

56. That would be a much easier way than suspending the constitution?—Much.

57. That would seem to be the simplest way to do it?—Yes.

58. And if the Governor had those powers, then in case of conflict he would exercise them subject to the direction and advice of the Central Government. Would not that be the easiest way?—I think so.

59. *Major Atlee*: Looking at a possible constitutional development rather in a large-scale view, supposing Law and Order were transferred to ministers in the provinces, are not you going to leave your Central Government very weak? Supposing, rather after the manner they have in the United States, where I fancy the Federal Government is extremely weak, because it has got to do everything through the State Governments, you transferred Law and Order to the provincial Governments, would not you be landed here in rather that position unless there were some power of Law and Order in the Central Government?—Well, that is really the point I have been trying to make. I could not see how you could transfer Law and Order in the provinces unless you retained the full powers of superintendence, direction and control that the Government of India at present exercise on the reserved side; and I was suggesting that there might, of course, be considerable difficulties in practice in exercising that control over a popular Government.

*Lord Burnham*: May I interrupt only to say, in confirmation of what you say as regards America, they set the Federal police different duties from those of the State police, and in New York they came into conflict.

60. *Major Atlee*: That is precisely the point I was trying to lead up to. Is there any possibility of having a police force for special purposes in the hands of the Central Government strictly for certain limited activities?—I hardly think it would be satisfactory to split your forces of Law and Order in that way. In practice, of course, as we were saying just now, the real reserve force in the last resort is the army, and that naturally remains always in the hands of the Central Government.

61. Yes, but that is exactly where the difficulty comes in, because it is a reserve force that it is extremely difficult to use in the event of any conflict of opinion being rather strong between the central and the local governments, and it is one of the difficulties, as you know, with regard to any constitutional evolution. The point I was making was whether it was possible, in your view, to have a force in the hands of the Central Government that would be something intermediate between having to call in the troops and the use of the local police force in the provinces?—Would that force only be used under the direct orders of the Central Government, because that might lead to most unfortunate delay? One wants to have a force that is available under the hands of the local people, and can be employed at once, because it is extremely important in all these matters to stop the thing at the very beginning. If it is once allowed to gather strength it spreads. The important thing is to act at once.

62. Yes. I take it, though, that the idea would be that this would be an emergency force, that the original trouble would be dealt with by a local force, but if the situation gets bad, then I think the provincial Government here consults with the Central Government to-day, does it not?—Yes, it would; but, of course, the provincial Government at the present time has complete authority to call for the assistance of the troops, and not merely in suppressing disorder, but in preventing it, and they do use troops very freely, and it is very important that they should be used at once. Very often a display of force beforehand will prevent matters issuing in a riot.

63. Exactly, but I was making an assumption of what is roughly known as provincial self-government, and one sees at once there the difficulty of a popular ministry having the power to call in troops. There has been trouble overseas in one or two cases and

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that is exactly where the difficulty I see comes in?—Yes, I see that. (Mr. Dunnett): I understand Major Attlee contemplates a sort of reserved central police force to be used to assist the provincial force as a way of getting out of the use of troops. Lord Burnham, and I think Major Attlee also, mentioned the case of America. As I understand it, in the case of America and Australia, and I think most true Federal Constitutions, the central arm can interfere only at the request and on the invitation of the State. For instance, the Chicago riots of 1861 were quelled by federal troops on the invitation of the State. Bryce is my authority; the federal arm intervenes only by invitation. It is the same in Australia.

Lord Burnham: I think in the case of bootlegging, of which I was thinking, other considerations arise.

Mr. Dunnett: It is in Bryce's second volume. I think there is a constitutional provision to that effect, that help may be given only on request.

Lord Burnham: I am informed \* \* \* that in New York there are special federal police for bootlegging purposes which act directly in the State of New York.

64. Major Attlee: That brings out the point I wanted to make. The criticism has been made very often of the United States Constitution that they are so extremely weak centrally, and where you have a law passed like prohibition, which is received gladly in some States and—shall we say—less gladly in others, the central government has no power because the local police will not enforce it. Taking the parallel here, you might have similar cases of the central legislation laying down things which would normally be performed by the local police, but in case of neglect you might want to have some weapon in the hands of the central authorities which was not so drastic as the introduction of troops?—That raises the very difficult question of separating the administration of justice and the legislation. At present the legislation for criminal justice is central, while the administration is provincial. Here we have what is not a feature of other Constitutions, a separation, with the legislative power in central hands and the administrative power in provincial hands. If you make a clean cut between the two authorities you raise these difficulties. I should like, following the line you yourself raised of a central force, to say that that problem has given me the occasion to carry out some research. Take the case of Canada. In Canada the arrangements are very similar to those at Home. There is a single central force, corresponding to the Metropolitan Police, and known as the Royal Canadian Mounted Police; apart from that the police (as I understand it from the last Canadian Year Book) are either municipal or county, as at Home. There is, however, an Act which I find in their Revised Statutes (it is not referred to by Keith and other authorities) which gives them authority to set up a Dominion police force. I have not been able to work that out, but the mere letter of the law as it stands seems to me to suggest that there is a power in Canada of the nature you contemplate, and that Act about a Dominion police force gives them power to set up police magistrates, and one section of it, section 4 or 5 says these magistrates are to have certain powers, including the power to appoint constables. It seems to me, therefore, that something of the nature of what you have in mind, Major Attlee, is on the statute book in Canada; but it is clear that the administrative arrangement in Canada is not of that nature, but is similar to the arrangement at Home.

65. The point you make about legislation and administration is because here you are working the other way round. There you have States and you have federated them; here you really had a government that was deconcentrated, but not a real decentralisation. If you are moving towards decentralisation (which is what provincial autonomy and that sort of thing means) you have to see how

that particular arrangement of the separation of legislation and administration is going to work?—I should like to make one subtraction from what I have said, and that is that the position as regards police legislation is different. We have at present a general All-India Police Act. It is not of universal application, but may be extended. Its extension is permissive. It has in effect been extended to four or five provinces, but other provinces have provincial Police Acts governing the organisation, powers, protection, duties, etc., of their police. Some of these Acts are anterior to 1861, and therefore may not be amended by provincial legislatures, but otherwise the legislative power for the police is in the provinces. (Mr. Haig): The real, practical difficulty I feel about your suggestion is that you have, *ex hypothesi*, a serious situation to be dealt with, and there would apparently be two forces, under two different controls, being expected to deal with it. It seems to me that is going to lead to inefficiency and friction. You cannot maintain a Central Government force which would be sufficient by itself to deal with all emergencies; that would be extravagant and would mean duplication. On the other hand, you might find, if the situation developed through the reluctance of the local government to deal with it properly, that they might not be prepared to place their local force unreservedly at the disposal of the Central Government. That is the sort of practical difficulty I feel about it.

66. From the point of view of expense, you might save on troops if you had a federal police force?—Possibly, but you would have to maintain a very substantial force.

67. Has it ever been considered, with regard to the control of law and order, whether it would not be possible to keep some central control by having a definite proportion of the expense of police forces paid from Central Government funds, subject to efficiency and so on, after the manner we have at home in regard to the local police force?—I do not know whether that has been considered. (Mr. Dunnett): On the financial side there is some mention of it in the financial memorandum—the grant-in-aid system. I think in effect, looking at it from the provincial point of view, a grant-in-aid system would involve closer control than our present powers of superintendence, direction and control. It would probably involve inspection, which is not a feature of our present system, and I think possibly it would effect a more severe limitation on provincial autonomy than the powers we possess now in the manner in which we now exercise them.

68. Mr. Harishorn: I understood you to say, Mr. Dunnett, that if Law and Order were transferred to a minister responsible to a provincial legislature, and powers were vested in the Governor-General in Council, in the event of that service breaking down, for the centre to take it over, that that would involve the complete suspension of the whole provincial constitution?—I am inclined to think so, yes.

69. Can you tell us why you think the one could not be done without the other?—For one thing, these Law and Order problems hardly ever arise in isolation. They do not arise, for instance, because people want to fight; they arise on account of religious matters, revenue matters or some other aspect of the administration. I have a general feeling that the isolation of Law and Order from other aspects of administration is very difficult. Secondly, the administration of Law and Order is in effect carried on not only by the police but by a number of other establishments who assist them—the subordinate revenue establishment, for example the *lambardars*, *zaildars*, etc. I very much doubt whether you could simply take over the Police and Law and Order and leave the rest provincial.

70. Colonel Lane-Fox: Would not it be possible, if a provincial Governor had sufficient powers, for him to take over that branch of administration without the whole constitution being suspended?—The method is similar to the present method in the

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transferred departments, where not only is there Rule 49 but also the power in the Governor to act otherwise than on the advice of his ministers. There it has been possible to take over the administration of all transferred subjects, but I do not think the Constitution contemplates, or that it is practicable, to take over a single subject; but I am not sure on this point.

71. Why should not he leave Education alone because he wants to deal with Law and Order?—Yes, possibly the present distinction between transferred and reserved subjects might be respected, so as to leave some subjects similar to transferred subjects with the provincial Government, but even these might be the occasion of the disturbance of law and order which necessitated this special action.

72. *The Chairman*: We have got to be a little precise about this matter, and I am not sure I have quite understood your last reference to the present statutory provisions. You know them very well; just tell me if I have got them right. I understand the present statutory provision which may be vaguely described as suspending the ordinary administration is of this sort. In Section 52 you have a provision that the Governor of a province in relation to transferred subjects may disregard the advice of his ministers and require action to be taken otherwise than in accordance with that advice if he thinks necessary, and that is all?—Yes.

73. Then you have a further proviso that if, owing to a vacancy (this was the Bengal case), there is no minister to administer a transferred subject, the Governor may temporarily administer the transferred subject; but there is nothing more, is there?—No.

74. That is all it is. The Bengal case was a case, if I remember aright, in Lord Lytton's time, when (for special reasons into which we need not go) there was no minister holding the office, and consequently, it being a transferred department—education, I think—Lord Lytton for the time being was his own minister, so to speak. The only other instance I know of at the moment in the statute book is that in relation to transferred subjects the Governor may if he thinks sufficient cause for it exists dissent from his ministers and act otherwise than as they advise; but do you think that kind of provision could have in practice application to the case of Law and Order? I am not quite clear what the Governor could do?—(*Mr. Dunnett*): When I perhaps rather hastily used the words “the suspension of the constitution” I had in mind really not so much this question as the fact that the constitution does permit of suspension because the transfer is made under rules which may be altered.

75. *The Chairman*: Does not that involve not only drawing up new rules but laying them before the British Parliament?—I am not sure about these particular rules. (*Mr. Haig*): Just to clear up the position, I might read from Devolution Rule 6, which authorises the Governor-General in Council “with the previous sanction of the Secretary of State in Council to revoke or suspend for such period as he may consider necessary the transfer of all or any provincial subjects in any province, and upon such revocation or during such suspension the subjects shall not be transferred subjects.”

76. That is Devolution Rule 6? I missed that. —Yes, that is Rule 6.

77. I am obliged to you. Mr. Dunnett, what you are referring to is that the Rules themselves are capable of being altered?—(*Mr. Dunnett*): Yes, really Mr. Haig took the point I had at the back of my head. But there is a power of suspension, sir. I am afraid that is not an answer to your question. The question was whether this power of the Governor to reject the advice of his ministers might be made applicable to the case of Law and Order if transferred?

78. What occurs to me is this. As long as you have got the provincial government in two parts, the Governor and his colleagues on the reserved side as well as his colleagues on the transferred side, I

can understand the arrangement, a practical arrangement whereby if the advisers on the transferred side in extreme cases disregard his advice the Governor has other instruments through whom he can act. If you are going to have all the departments transferred, I am not at present quite clear as to what is meant in practice by saying that the Governor might be given power by rule to act himself. How could he act?—(*Mr. Haig*): He will have the machinery. (*Mr. Dunnett*): The case is different of course. In the case where he simply rejects the advice of ministers and orders action to be taken otherwise than on that advice, then I presume he does it through the ministers' machinery. It is accepted as the order of the Government and carried out in the ordinary way. In the case where there is a suspension and therefore no ministers, I imagine the arrangement would provide for the continuance of the service acting under the orders of the Governor as in the past before suspension they had been acting under the orders of the minister.

79. *Major Atlee*: You are contemplating all through that the trouble likely to arise is a sudden outburst or something of that sort?—No.

80. It rather suggests to my mind that supposing you had such a letting down of the police force the Governor would find the weapon broken in his hands. Is that not a possibility? The council might refuse to vote the money?—That raises the whole question of intervention for the general purpose of the maintenance of provincial standards, and I think, sir, that would require rather an elaborate description.

81. *The Chairman*: It is useful to hear that, and I should be very grateful indeed to have light thrown on it.—Perhaps my idea would be clearer if I take the present case of the transferred subjects. To my mind it is not perhaps inaccurate to say that the control of the Government of India over transferred subjects administration—I am referring to the exercise of Rule 49—is for one purpose only, that is to say, for the protection of extra provincial jurisdiction. I think the common feature of these provisions is the protection of jurisdiction which is not that of a province. The maintenance of standards of good administration in transferred departments in my view is entrusted not to the Government of India who has no concern with it but to the Governor under this section 52 interpreted in terms of his instrument of instructions.

82. Sub-section 3?—Sub-section 3—the power to disregard the advice. He works that in the spirit of his Instrument of Instructions in which he is charged with maintaining good standards of administration, financial stability, financial probity, co-operation and goodwill among all classes and creeds, absence of monopoly, and so on. The Government of India does not concern itself with transferred departments for these purposes in order to maintain provincial standards. That is the control of the Governor. Now, if we presume that Police were completely transferred, that is to say, that there is no power in the Government of India to superintend, direct and control the provincial administration of Law and Order, then I think the effect would be that the Central Government would be concerned only in protecting these external jurisdictions or such interests as the Secretary of State had in the services or settling disputes between provinces. It would not be the Central Government's concern even if the standards of efficiency of police administration declined.

83. *Major Atlee*: Not even if it affected central subjects like Railways and so on?—Then of course that will be the protection of outside jurisdiction. But generally as a matter of simple standards of provincial administration, on the analogy of the transferred departments now, the Central Government would not be interested. Have I made my point, sir?

*The Chairman*: I think you have.—In Education, to my view the Central Government would not be



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entitled to interfere and say, "your percentage of literacy of 6 per cent. is not enough. You must put it up to 10," Rule 49 does not cover that.

84. Taking Education as an example, a subject which is now transferred, the Central Government does not consider it any part of its duty to intervene to secure the attainment of a particular standard. Then, by analogy, supposing Law and Order was transferred you suggest that the Central Government again would not intervene for the purpose of securing that standard. Is that your point?—That is so, sir.

85. *Sir Arthur Froom*: I think I understood you, Mr. Haig, to say that we cannot have a Central Government in this country which would assume a detailed administration of control of Law and Order in a province?—(Mr. Haig): Yes.

86. I also understood you to say that at the same time the Central Government must retain some control?—Yes.

87. And in the past this control has usually been one of advice?—Yes.

88. May I ask why you advise?—The advice is given on the understanding that it can, if necessary, be imposed.

89. Perhaps the advice is followed by instructions. I think there have been cases where a province has objected to the advice of the Central Government and then orders have followed?—I think that is probable.

90. During our present tour we had suggestions for full provincial autonomy including the transfer of Law and Order. We had also suggestions for full provincial autonomy but that Law and Order should not be transferred. Now to take the first suggestion, can you say whether the minister can carry on the administration of Law and Order without any friction in view of the fact that you attach great importance to the control of the Central Government?—Of course it depends on the attitude that a responsible minister adopts towards Law and Order; that is a matter of speculation.

91. Supposing a minister wanted to take one line of action and the Central Government did not approve of it, there might be friction?—Yes, there may be friction, and I suppose the possibility of the minister resigning too.

92. I think your insistence of there being some degree of control with the Central Government practically shuts out any idea of the transfer of Law and Order to a minister?—I will not go as far as that; I think there are distinct difficulties which have got to be considered and faced.

93. You say that there may be some friction?—Yes.

94. Take the other view which I have already mentioned. Some witnesses who appeared before us wanted provincial autonomy with the exception of the transfer of Law and Order. They do not want any form of provincial diarchy such as exists at present, i.e. Law and Order being a reserved subject. Can you suggest any method to this Conference how you can help those people who hold the view that there may be full provincial autonomy but that Law and Order should not be transferred and at the same time want that the present form of government should be wiped out?—What you contemplate is complete responsible provincial government with Law and Order excluded entirely from its purview. The provincial legislative council would presumably have nothing to do with the voting of the money and would not be able to discuss the action of the executive or its policy nor would any proposals for legislation come before it. Well then, you would have to have, as Sir John Simon made clear at an early stage, the legislation and finance and the general criticism of the government's policy conducted presumably in the Central Legislature.

95. There is criticism now?—Yes. Perhaps it may not be so great. Then you would presumably have the Governor with, I suppose, somebody corresponding to an Executive Councillor administering

exclusively in the province but receiving reasonably close supervision from the Central Government. That is the only sort of scheme I could contemplate. I do not say that it is either a good or a bad scheme, but that is the sort of thing which presents itself to me.

96. It is rather short notice for you to put forward fully the scheme. But that is the scheme that you contemplate might be carried out to meet the views of people who would like to have full provincial autonomy without the transference of Law and Order?—I should imagine that that would be the kind of general form such a scheme would have to take. I have no doubt that criticisms\* would obviously occur. There would be, for instance, no very clear connection between the policy of a responsible provincial government and the maintenance of law and order; and that is a matter which might lead to considerable embarrassment. If I might give an example, I would cite the Bardoli agitation, which might have had very serious effects on the maintenance of order, which arose out of the land revenue policy which, I suppose, under the scheme would be in the hands of a responsible provincial government. This merely suggests itself to me. I do not know of course what powers you would propose to give to the Governor in regard to his responsibility to the provincial Government—whether he would be able to influence its policy or whether it would be working quite separately.

97. *Mr. Cadogan*: You contemplate still a very large measure of interference and control in day-to-day administration from the Central Government?—Under a system like that the control from the Central Government would probably be more close than it is now.

98. *Sir Arthur Froom*: In the picture you gave us, you think there would be some trouble because the minister who controls land revenue has to apply to those responsible for administering the police for further safeguards, if necessary, if he wants to carry out his policy. I put it to you that those are similar to what might happen now. When the ordinary civil control gets out of your hands you have to apply to the military?—What I meant was that there ought to be some kind of link between the policy of the provincial Government and those who are responsible for law and order.

99. *Lord Burnham*: Under a scheme of that sort, as a precautionary measure, is there not the possibility of calling in the military force sooner than would otherwise be?—I should not think so, because there would be the closest relation between the Governor and the military authorities.

100. Because of centralisation?—I am contemplating that in practice the centralisation could not go very far and that you would have to have a responsible agent who would be the Governor.

101. Then it would be going on more or less as it does now in an altered form?—Yes, except that the local criticism and the local budget and so on would be removed up here.

*The Chairman*: You, Sir Arthur, happened to have used a phrase that Mr. Haig has given us a scheme. I think it would be just as well to put on the record what we understand him to say. Mr. Haig is not proposing anything; he is only endeavouring to help us with his experience, given the conditions which you have defined. I am saying this because I do not want the public to suppose that Mr. Haig has given us any scheme of his own.

*Mr. Haig*: I am very much obliged to you, sir, for clearing up the position.

102. *Mr. Kikabhai Premchand*: If Law and Order is not transferred, autonomy in the provinces will only be in name?—I do not think so; there are other important subjects.

103. Would you agree to the transfer of Law and Order if the judiciary is placed under the High Court, responsible for higher judicial service to the Government of India, where the political bias of the legislative council or the Minister for Law and Order

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cannot have any influence?—I do not think the main difficulties concern the judiciary so much as the ordinary maintenance of order.

104. The actual administration of the judiciary is now under the High Court. Would you not transfer to the minister the higher judiciary?—No.

105. If the Police department is transferred to a minister for Law and Order with a provision that the Governor shall have a final voice in this department, have you any objection to the transfer then?—My difficulty is if the Governor has a final voice what becomes of the responsibility of the minister to the council.

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108. *Sir Hari Singh Gour*: Within the last twelve months how often has the military been called out to assist the civil authorities? Have you any idea?—No, but of course within the last two or three years they have been utilised very freely.

109. I know that, but what would be the number of occasions when, say within the last three years—roughly, I do not want actual statistics—they have been called?—I do not know. I should think perhaps a dozen times in a year.

110. *Colonel Lane-Fox*: When the troops left their quarters?—Yes.

111. *The Chairman*: In the whole of India?—Yes.

112. My recollection is we were told when we were in the Bombay Presidency, that since the introduction of the Montford reforms the number of occasions in that Presidency was exceedingly small?—(*Mr. Haig*): I think they were more frequently used in Bengal, the United Provinces and the Punjab than in other provinces.

113. *Sir Hari Singh Gour*: As a matter of fact the civil authorities in all the provinces are empowered to call in the aid of the military without previous reference to the Government of India?—Yes.

114. When the civil local authorities in the province call in the aid of the military without reference to the Government of India, does the Government of India by any rule or order call upon the provincial Government to report the circumstances in which the military was called out?—The circumstances are always reported.

115. Are those circumstances scrutinised?—Yes.

116. Is it done with a view to ratify?—No; simply a close scrutiny is kept.

117. That is only, as a matter of fact, for record?—Yes. The Government of India have to satisfy themselves that the troops have not been used unnecessarily.

118. Has there been any occasion during the last three years when the Government of India after scrutiny found that the troops were not necessary but were still called in?—No, I have no recollection of such a case.

119. I can take it that the provincial Governments can be trusted to use their discretion—and have in the past used their discretion—wisely in calling in the military?—Yes.

120. Therefore the intervention of the Government of India is very remote?—Yes.

121. If Law and Order was made a provincial subject and transferred to the charge of the ministers and the provincial Governments continue to act as they have been acting in the past, then you do not anticipate any serious danger to the transfer of Law and Order?—You would then have a popular authority instead of the official authority calling in the military.

122. Let us concentrate on that. At present the action of the Member is not subject to popular control. In the future, we will assume that the action of the Minister will be subject to popular control. But in view of the fact that the department of Law and Order, as you have pointed out, cannot be separated from the other departments and the other departments are interdependent and there has been no complaint that the ministers have abused their power merely because they have been subject to popular control, do you think that the ministers will

abuse their power if this department also is entrusted to them? Do you know whether the ministers have abused their power in the departments entrusted to them?—I am not particularly acquainted with the administration of provincial transferred subjects.

123. There are provinces in which the department of Law and Order is in charge of Indian Home Members?—Yes.

124. Supposing we devise a check that the Executive Councillor or the future minister would not be swayed by popular control wrongly exercised over him, then there would be no objection to the transfer of Law and Order?—I do not quite understand how that condition can be fulfilled.

125. By giving him fixity of tenure.—I suppose he will still be influenced by popular opinion.

126. *The Chairman*: I think the point of *Sir Hari Singh Gour* is a very important one. When one is considering the possible changes, it is perfectly right and indeed it is very necessary that one should visualise the change possibly working badly—I am not saying it will work badly or otherwise, but I think the question put by *Sir Hari Singh Gour* is really designed to suggest that it may be desirable to explore this question whether consistently with the scheme of transfer, it is possible by other constitutional changes to minimise the risk of the thing working badly. That was your point, is it not, *Sir Hari Singh Gour*?

*Sir Hari Singh Gour*: Yes, sir.

*The Witness (Mr. Haig)*: It might be possible.

127. *Sir Hari Singh Gour*: It might eliminate the criticism which is levelled against the working of diarchy and possibly prevent the hostility with which the enlarged provincial councils and the autonomous provinces will regard the last vestige of the bureaucracy centred in the administration of law and order?—Yes.

128. The position might become very difficult for the future Home Member who is in charge of the maintenance of law and order when all departments are transferred?—I quite see that.

129. When troops are called by the provincial local authorities is any bill of cost submitted to them? Do they pay?—That is rather a thorny subject which we have been discussing with the Army department lately. There is a sort of general understanding that any additional expenditure which the military incur over and above their budget should be paid for by the provincial Governments.

130. Has no demand been made in the past and no payment made?—In some cases payments have been made and we have recently had a case in which the Army department has made a claim against the Bengal Government.

131. Supposing definite rules were framed and the provincial Governments knew that if they call in the aid of the military they will have to pay its cost, would it not prevent unnecessary calling in the aid of the military?—I have no doubt that it would minimise some difficulties.

132. There is a feeling—I do not know if it is justified or not—that the civil authorities sometimes get panicky that the police may not be sufficient and that they have to go in for the military. This will be avoided if they were to know that the calling in of the military involves cost?—Yes; but on the other hand one does not want to go to the other extreme and make it difficult for the provincial Government to utilise the military when it should be utilised.

133. There is no intention of penalising the military; the provincial governments should pay a reasonable charge. You said, *Mr. Haig*—and very rightly—that the preservation of law and order has very little connection with the control of the higher judiciary?—Yes.

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138. *Sir Zulfiqar Ali Khan*: *Mr. Haig*, you know that we cannot contemplate under the existing circumstances any change in the present system without giving our fullest consideration to all the different aspects of the problem. You said in answer perhaps

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to the Chairman that if in the provinces Law and Order were transferred to ministerial control, the Governor-General would cease to exercise plenary powers?—(Mr. Haig) I only said that under the existing Devolution Rules he would cease. I did not contemplate that as a feasible scheme myself.

139. But as a matter of course this result would follow?—Under the existing Devolution Rules, yes.

140. Even if this happens, considering the present situation in the country, that is to say the tension between the different communities and the riots happening at different places and the constant bickering and bitterness between the different sections of the population, would it not be advisable for us to look at the practical result which would follow from the transference of this subject of Law and Order to the ministerial control? We cannot base our opinion upon any ideal system of administration; but we have to look to the practical side of the problem. Now considering all this, I would like to ask you one or two questions. Supposing Law and Order is transferred in the provinces and supposing in some remote place where neither the police nor the military are immediately available, a riot occurs between the Hindus and Muhammadans and supposing the Hindus are in a minority, do you not contemplate that the slaughter of the minority community would be the result and so also if the Muhammadans are in a minority? And you could not render them immediate help which would be necessary under the circumstances? Supposing also that the minister who controls Law and Order is communally biased and he delays the reinforcement of the forces unnecessarily, would not this destroy the fabric of administration?—Well, it is clearly very necessary that whatever the control of Law and Order, the police force must be maintained in adequate numbers to protect the people and also it must be employed in an impartial way and an effective way.

141. Can you tell me whether as Home Secretary instances have not come within your knowledge which show that under certain circumstances officials belonging to one religion or another have not been free of blame in controlling matters?—No; I would not say that. But it is perfectly true that officials belonging to a particular community are very frequently assailed by suspicions from the other communities. That is perfectly true.

142. They have been assailed?—Yes.

143. Sir Hari Singh Gour: Have the suspicions been justified?—No.

144. Sir Zulfiqar Ali Khan: Never justified?—Not to my knowledge.

145. But still I know there have been instances in which people entertain grave suspicion of the conduct of officers belonging to a different community?—That is an unfortunate development of these heated communal feelings.

146. The feeling does exist and we have to take into consideration all the existing conditions?—Yes.

147. For instance, in the case of Bardoli where the people refused to pay land revenue, if an impartial authority had not been controlling the situation, the affairs might have gone to a very great extent towards anarchy?—It was certainly a difficult situation with considerable potentialities for further trouble.

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149. Sir Zulfiqar Ali Khan: In answer to my

friend, Sir Hari Singh Gour, you said, Mr. Haig, that if permanency is given to the tenure of a minister then it would perhaps minimise the chances of his being influenced by the legislative council?—I do not really know to what extent. So far as it goes no doubt it would leave him in a position of rather more independence; but of course he has got to look to the future.

150. He has got ultimately to resort to the electorate?—Yes.

151. He cannot divest himself of that consideration?—No.

152. Therefore the giving of a permanent tenure to a minister does not materially change the situation?—No.

153. Dr. Suhrawardy: Will you kindly tell me who is responsible for the maintenance of Law and Order in New Delhi?—Primarily the Chief Commissioner of Delhi.

154. Is he subject to the superintendence, control and direction of the Government like the heads of other provinces?—Yes.

Sir Hari Singh Gour: Much more.

155. Dr. Suhrawardy: In view of the fact that he has got no Executive Council and no legislative council, may I take it that the supervision exercised over him is the maximum supervision and the closest supervision which the Government of India can exercise over a provincial Government?—Well, as a rule the problems with which he is concerned are not of the same magnitude as those that arise in a larger province.

156. Does he not occupy the position of an official contemplated by you under the scheme foreshadowed by you in reply to Sir Arthur Froom?—I suppose he is something of that sort.

157. So Delhi furnishes the closest illustration of the scheme foreshadowed by you in reply to Sir Arthur Froom?—Yes, but of course on a very small scale.

158. May I take as a fair sample the arrangement for the maintenance of law and order to meet an extraordinary situation like that on the 21st of November which would be made under the scheme foreshadowed by you?

The Chairman: I do not think that we need to pursue that particular application.

159. Sir Sankaran Nair: I am not sure whether I am right in asking you the question: So you need not reply to my question if you do not like to do so. From what you know of the incidents in which the Government of India have interfered or have instructed or have advised the local Governments, looking to the consequences that followed such advice or instruction or interference, do you say now that the Government of India would have done well in not having interfered or whether they were right in interfering, taking the years between 1919 and 1924—I refer especially to the incidents connected with the Khilafat agitation and the non-co-operation movement?—It is very difficult for me to speak on matters which are not really within my personal knowledge. I have only been in the Home Department since 1926 and I do not think we can charge ourselves since that time with having interfered unwisely.

160. The incidents I had in my mind were those which happened before that time and you would not like to say anything about that?—I really have not the knowledge.

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### Afternoon.

(MR. HARTSHORN WAS ABSENT FROM THE AFTERNOON SESSION.)

**Mr. L. GRAHAM, C.I.E., I.C.S., Secretary to the Government of India, Legislative Department, and Mr. J. M. DUNNETT, C.I.E., I.C.S.**

1. *The Chairman* : Mr. Graham, are you the Secretary of the Legislative department?—Yes, sir.

2. Could you just state briefly what the duties of the Legislative department are?—Certain functions, sir, are allotted to us by the Governor-General under the rules of business. Supposing we take legislation first. At the moment when it is proposed to undertake legislation we receive instructions to prepare Bills, that is to say, we include the draftsmen in our department.

3. Then it comes to this that the Legislative department includes the draftsmen?—Yes, sir. And thereafter we have certain duties in respect of Bills until they are passed by the two Houses. For instance, if a Bill goes to the select committee, we supply the secretaries of the select committee. At all stages we examine amendments when they come in and we draft amendments too as the Bills are in progress.

4. That comes to this. Your Legislative department seems to combine the functions of the Parliamentary draftsmen, and the functions or some of the functions of the staff of what we call the Speaker of the House. For example, the secretaries for committees?—We are in close touch with the Bills from the beginning till the end.

5. Does the Legislative department perform similar functions with reference to non-official Bills?—When any non-official Bill goes to a select committee, we again provide the secretary. In fact, sir, we provide for non-officials a considerable amount of assistance. Frequently a member who has got a Bill brings it to us and asks for assistance in drafting.

6. Is there anything you want to add with reference to the scope of the department?—I have only mentioned one side of the department, sir. All statutory rules and notifications under Acts have to be passed by our department; that is to say, the drafts are sent to us and we put the rules or notifications into shape. Then you come to a very important side of our work, sir, which consists of supplying advice very largely on interpretation of statutes to all the departments of the Government of India. These are on what we call unofficial references. The point is that the departments here have not got their own Legal Adviser. As a department we have also very heavy work in connection with the examination of all provincial Bills. When proposals from the provinces reach the form of a Bill, they are under executive instructions sent up to the Legislative department of the Government of India, and there they are examined primarily from the point of view of the requirements of sanction of the Governor-General under section 80A of the Government of India Act. It is rather an elaborate section, sir, and I may say it is a very tiresome section to work. On the whole we have come to a pretty fair agreement between the provinces as to the interpretation of the section, and we no longer have difficulties or differences of opinion as to whether Bills require sanction or not. It is our business to take the orders of the Governor-General for the grant or refusal of sanction. At the same time we circulate a copy of the Bill to all executive departments concerned before taking His Excellency's order on the question of sanction, and at that stage the executive departments have an opportunity of exercising some control over the provincial Governments.

7. I agree that this is a point of some constitutional importance. In substance the part of section 80A which is relevant is the part, is it not, which provides that the provincial legislature "may not, without the previous sanction of the Governor-General, make or take into consideration any law" of certain listed characters?—Yes, sir.

8. Such for example as a law imposing any new tax, or regulating any Central subject. What I would like you to tell me is this. Down to what point can those who contemplate introducing such a law carry it before they ask for the previous sanction of the Governor-General? What the section says is that the local legislature cannot "make or take into consideration any law"?—"Make or take into consideration." The practice, sir, is before introduction.

9. And that means apparently that the draft Bill is submitted before introduction, for sanction?—Yes, sir.

10. Do I understand you to say that every draft is so submitted?—No, sir. The position is this, that if a provincial Government is quite satisfied that the Bill does not require sanction, it may take the risk. There is a risk of course that a point of order might be raised on the first reading in the provincial council. Bills of not very great importance generally speaking are not sent up.

11. You said that local Governments may take the risk. But what about private Bills?—I was talking about official Bills, sir. Private Bills come up for sanction in the ordinary way through the local Government.

12. How is that done? I am a private member of a provincial legislature and I want to introduce a Bill of some kind or other in the provincial legislature. I engage a non-official draftsman and get my clauses drafted, and now the thing is ready. What is the machinery to secure, before I introduce the Bill, that the central authorities might have a look at it?—Ordinarily, sir, a private member is very well aware of the risks and he submits the Bill generally through the local Government, or he may send it up direct. And then the machinery starts.

13. I see. Section 80A requires for local legislation of particular characters named not the previous sanction of the Government of India, but the previous sanction of the Governor-General?—Yes, sir.

14. Then I gather that the advice which your department is ultimately disposed to give is really tendered to the Governor-General?—Yes, sir.

15. Has there been any instance in which a provincial legislature has purported to pass a Bill which on subsequent investigation has been found to be one of the sort that ought to have had the previous sanction of the Governor-General?—I think there have been one or two cases, sir, but, as you are well aware, there is a remedial clause. It is the proviso to sub-section (3) of section 80A.

16. That is to say, that if notwithstanding the fact that there should have been this condition precedent fulfilled there is a subsequent assent given to the Act by the Governor-General himself, that cures the initial defect?—Yes, sir.

17. You might tell us also this which is again of constitutional importance. In practice do a large number of proposed Bills come forward which require under the law the previous sanction of the Governor-General?—A very large number indeed, sir. We think that the section is too wide. We have asked the Secretary of State to give us a rule-making power so that we may exempt certain categories of Bills from the requirements of previous sanction.

18. You said "we." Who is "we"?—The rule-making power would be exercised by the Government of India, sir.

19. You say that the Government of India might be given some rule-making power, but is not the Government of India given a power to make rules under the Act?—There is a general provision under section 129A about the rule-making powers. In the absence of special provision the rules will be made



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by the Governor-General in Council subject to the sanction therein laid down.

20. You say that the matter is before the Secretary of State?—Yes, sir, at present, and I understand that it is agreed that such a clause might be put in when the revision of the Act is taken up.

21. *The Chairman:* You say there are many cases of Bills being promoted in the provincial legislatures which bring into play this provision about the previous sanction. Is there anything useful you could tell us as to how far when previous sanction is required that sanction is given, or whether there are many cases in which sanction is refused?—I am afraid I have not got the figures, sir. But actually sanction for Provincial Government's Bills is practically never refused, because what happens is that the Government of India negotiate with the provincial Government and the Bill comes up in an agreed form.

22. Yes, but that will only arise with reference to Government Bills?—Non-official Bills are in a different category because the executive Government has no control. In these cases sanction has been refused frequently; I think in about 35 cases.

23. I gather you say that supposing a case arises where it appears to the president of the local legislature that previous sanction should have been obtained the point is treated by the president of the local legislature as a point of order?—Yes, sir.

24. He says it is out of order?—Yes, sir.

25. You think that part of the system works well?—I have had no complaints on this score at all. I think it does work very well. It is a very simple matter for a non-official member to ask for the sanction, but if he does not, he runs the risk.

26. You observe, Mr. Graham, that this kind of device, the device of saying that Bills proposed to be introduced in the province can only be introduced with the previous sanction of the Governor-General only becomes necessary because the constitution of British India as at present arranged does not really make a strict distribution of legislative power?—Yes, that is so.

27. Of course if you were to provide for some federal system in which certain legislative powers were reserved for the centre and certain others were made over to the provinces, then the point as to whether a certain class of provincial Bills can be assented to would become less important. But under the present arrangement I imagine that it may be of considerable importance. Is that so?—I do not know to what extent when the separation of subjects was made this point was considered, but I think it probable that it was observed that the Canadian system of distribution of powers has resulted in much litigation and we are trying this system of sanction as an alternative device.

28. I quite appreciate that. If you have a strict distribution of subjects between the centre and the circumference, then it is inevitable that you run the risk of disputes in debatable cases as to which side of the line a subject lies on?—Yes.

29. And it is very difficult to suggest how that dispute is to be settled without recourse to litigation. I gather you say that you regard this sort of device as an alternative to that system?—Yes.

30. Yes, that is very interesting. Now, I am not absolutely sure, but let me put what is in my mind. There is a certain class of legislation which is beyond the power of the provincial legislature altogether. One province cannot pass legislation which is going to apply in another province. Are there many cases where the subject of the proposed Bill is one which is beyond the power of the province? That is not touched by the provision for asking for permission from the Government of India?—Yes, that does not cover that kind of cases at all.

31. It is simply an invalid law?—To the extent to which it professes to operate outside the province.

32. And the next step is this, that if the local legislature is legislating on a subject which is within the boundaries of the province, the general legislative powers of the province for the peace and the good

government of the province, there is still a restriction of this sort. Though it may have the power to legislate there are still cases where reference will have to be made to the Government of India?—Yes, but there are cases where no question of sanction arises, but it being legislation in respect of a reserved subject that legislation is of considerable importance. It is required not by the Act but by executive order that the Bill be submitted to the Government of India. In exercise of our general powers of supervision, direction and control the local Government is required to submit its proposals to the Government of India.

33. I see. Under Section 80A it is not the case that you need the previous sanction of the Governor-General merely because the Bill deals with a reserved subject?—If it were merely a reserved subject and nothing more you would not require the sanction of the Governor-General. The difficulty is to get a clear dividing line between your reserved subjects and the central subjects. The local Governments are always straying over the line for some reason or other. They want some special powers to enforce the provisions of their Bills and they get at once within the ambit of the civil law which is a central subject.

34. We are much obliged to you. I gather you to say that upon the whole the method works all right. Sometimes Bills are given the necessary leave to proceed and sometimes they are not. But you rather raise the question whether there should be rule-making powers to modify the iron frame-work?—I should like to get it rather less rigid. That is on the assumption that you retain the division of subjects between the central and provincial Governments in any Constitution which is devised.

35. Now, this is a point which has very much to do with the practical business of constitution making. Are there many cases in which the Government of India pass through the Central Legislature a law applying to the whole of British India which in effect cancels or nullifies some previous provincial law?—It has the power of course. I was trying to think of an exact case, but I really do not think I can cite a case. One can quite well see that there may be cases where uniformity is absolutely necessary.

36. If I may say so it arises really for two reasons. It arises sometimes for the reason you stated, because it is desirable to secure uniformity—the same rule for every province—and that therefore means overriding provincial peculiarities. It also may arise—I think it has occasionally arisen—because the Central Government or the Federal Government thinks it absolutely necessary to support some proposition even though the local legislature acting within its own sphere is of a very different mood?—Yes.

37. For example in British Columbia you may have a local feeling, that you ought by every means to discourage the employment of, say, the Chinese or the Japanese and yet it may be that the Dominion of Canada taken as a whole may have a different view of public policy?—Yes, sir. I cannot cite an actual case of this kind in British India.

38. I see that. There are just one or two supplementary questions I would like to ask you and I will leave others to put to you any questions they may have. Section 72 of the Act, the Conference will remember, is the section which deals with the power of the Governor-General in cases of emergency to make and promulgate ordinances for the peace and good government of British India, and such ordinances may have currency for six months. Is not that the substance of it?—Yes.

39. Is it used and is it needed?—It is used, sir, and I think it is needed. In the first place, sir, India is a very large country and it is not an easy matter to get the Central Legislature called together quickly, and that is why it is said "in cases of emergency." You cannot call a meeting of your Central Legislature at very short notice, and things do happen very quickly here. Let us take the Moplah outbreak.

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Ordinarily the Central Legislature was not going to meet for another three or four months when that occurred, I think, and we had to get out something immediately. It was a question of martial law ordinances. The whole place was going up in a blaze and you had to do something at once.

40. So you did something. We need not go into details, perhaps. But that something involved the passing of what would otherwise have been legislation?—It involved empowering the military authorities to take special action to control the situation.

41. What was interesting to me to know was whether in fact the power is found to be useful and needs to be used?—I think that is the explanation, sir. India is a country of such large distances and it is difficult to get your legislature together at very short notice. That is the prime cause.

42. Has there been when the legislature subsequently met, in your experience, strong protest against the ordinances?—In one case there certainly was, sir. That was in connection with the Bengal Criminal Law Amendment Ordinance in 1924. That was the ordinance, as you doubtless know, sir, which dealt with the anarchical conspiracy in Bengal.

43. Yes, I know.—I cannot say exactly what happened when the Assembly met. Perhaps Sir Hari Singh Gour will tell you about that. I was not in India at that time.

44. It is really enough to say that the thing is used. That is what I should have expected. It is open, I dare say, to criticism by the Legislative Assembly when it meets.

Let us just turn to Section 43A. I find it very mysterious. "The Governor-General may at his discretion appoint from among the members of the Legislative Assembly, council secretaries who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them." Frankly I do not understand it and I gather it has not been used. What do you conceive to be the possible application of it? What is the meaning of it?—I think the idea, the purpose or intention was to give some acquaintance of the working of the Central machine to politicians and to interest them and generally to enlist some of the non-officials as Government supporters.

45. Is there anything in the Act which says what the functions of the council secretaries are?—Nothing at all.

46. It may be desirable to afford opportunities for private members of the legislature to have their first experience of responsibilities of administration as deputies of ministers. That might perhaps be the scheme in the provincial legislative councils. But where you have no ministers, in the Central legislature, what are the council secretaries to do?—I think he would have been admitted as a sort of honorary member of the department. He might to a certain extent have relieved the permanent secretary of the department of his duties in the Assembly.

47. Mr. Stewart reminds me that in the report of the Joint Select Committee (page 25 of the manual) the clause which is now 43A is commented on thus:—"The Committee have inserted this provision to allow of the selection of members of the legislature who will be able to undertake duties similar to those of the Parliamentary Under-Secretaries in this country. It should be entirely at the discretion of the Governor-General to say to which departments these officers should be attached, and to define the scope of their duties." But speaking with the greatest possible respect for the views of the Joint Select Committee, what occurs to one is that the parliamentary under-secretary has a ministerial chief while here it would mean an under-secretary without a minister.—He would be attached to a department. He would work with the member of the department, sir. The idea was certainly when we examined the thing in practice, when the thing was discussed on a resolution in the House, that he

would be an extra hand for replying on behalf of the department in the legislature.

48. Lord Burnham: Misled by an analogy which is really an analogy of the House of Lords where the Lords-in-waiting answer the enquiries addressed to a particular department?—When the thing was discussed, I think, in the first Assembly the general feeling among the members as far as I could make out was that it would result in the Government of India securing promising young politicians and cutting them off from their party. Was that not so?

Sir Hari Singh Gour: Quite.

49. The Chairman: Probably we shall be expected to make a report about the Sections in the Government of India Act, and naturally this is one.—I might say this. It is a matter of some interest. The thing was brought up by a non-official European, Mr. Spence, and he got practically no support. None of the parties liked it; and that was in the first Assembly when they were all co-operators. In the second or third Assembly there would have been even less support for it.

50. Lord Burnham: It amounts to an opportunity for political education?—Certainly.

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53. Lord Burnham: I am very much interested in this feature—it is not of course perhaps a curious feature of the Indian system—of the extraordinary growth of conventions outside altogether the four corners of the Government of India Act. There is a good deal about it in your sketch\* which you furnished us with. You have got on page 78 a subparagraph headed "conventions and procedure." It is not worth reading it because there is too much of it. But I might read one sentence. "The most firmly established of all conventions is the fiscal convention, but the general discussion of all supply, the separation of railway finance, the discussion during demands for non-voted expenditure, the annual readjustment of ways and means, the appointment of standing departmental committees and the enlargement of the powers of the standing Finance Committee are all tending to harden into recognised conventions." Of course if you were criticising this in an unfriendly way you might call this encroachment?—Our difficulty is in working a rigid Constitution, and you have got to make it bend a little. I do not mean that there has been any encroachment.

54. Yes, but does it not in another sense mean the ignoring of the limitations put by the Imperial Parliament upon the powers and functions of the legislature?—I think, sir, when there was any question of these conventions being made we have always examined the proposed line of action very carefully to make sure that we were not definitely infringing the provisions either of the Act or of any rule made under the Act. I remember examining the question of what is called the separation of railway finance very carefully from that point of view, and I think our conscience is clear on that score.

55. But take the question of the discussion or non-votable expenditure, particularly of Army expenditure. That is not only a standing feature but a predominant feature of the proceedings of the Assembly?—I really do not see how you can prevent it by any rule. Take the vote of the Army department. That is a votable subject. The Army department is very closely linked up with the army and it is almost impossible to say that at any stage the speaker is irrelevant.

56. But as a matter of practice you yourself say that the "expenditure on defence is non-voted but the Army expenditure may be attacked by a reduction of voted expenditure on the secretariat establishment of the Army department"?†—That is the way it works.

57. I only would put it without giving any opinion

\* Vol. IV.

† Vol. IV., p. 53.

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at all. It has in fact done away with the distinction between voted and non-votable expenditure?—That distinction is not a very rigid distinction because the Act itself allows the Governor-General to throw non-votable subjects open to discussion. Section 67A makes that clear.

58. In any case the limitations proposed have gradually disappeared?—Well, there is discussion. It amounts to this. The primary limitations have not disappeared because these subjects are non-voted.

59. That is the actual act of voting, but otherwise the non-votable expenditure is discussed just as freely under this convention as voted expenditure?—Yes. That is at the general discussion. That is definitely thrown open by the order of the Governor-General in exercise of his power under sub-section (3) of Section 67A. The section says "nor shall they be open to discussion by either chamber . . . unless the Governor-General otherwise directs." Every year the Governor-General does make a direction.

60. Consequentially the member-in-charge answers questions on non-votable expenditure even though there is no vote on them. Is that not so?—Yes, it really amounts to that.

61. Therefore indirectly—I am only looking at the facts and arguments contained in the memorandum—the Assembly exercises its influence, say, on the military expenditure, if not to the same extent as on voted items at least to a large extent, even though it is shut out under the Government of India Act?—It is very difficult to say how much a vote of the Assembly, for instance, in refusing money for the votable portion of the Army department really influences the non-votable portion.

62. The money that is votable is very small?—Yes.

63. It is a deliberate policy of the Government of India then—I do not say to connive—to acquiesce in it?—Yes; I should certainly think so.

64. *The Chairman*: Does it depend on the Government of India or does it depend on the rulings of the President?

*Lord Burnham*: I think so far as the Governor-General does not exercise his powers or allows discussion, it really depends on the Government of India. I do not know and that is why I am asking you.

*The Witness*: As regards the discussion, sir, when I said they are open to discussion, I meant unless the Governor-General otherwise directs. What happens is this. There is a positive message just before the beginning of the general discussion saying that the Governor-General throws open to discussion these subjects.

65. *The Chairman*: I am sorry I misunderstood you. 67A is the section which is on page 93. I am reading sub-section (3): "The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber . . . unless the Governor-General otherwise directs." And the fifth one is—"expenditure classified by the order of the Governor-General in Council as . . . (c) defence" I see that there are the words "unless the Governor-General otherwise directs."

*The Witness*: We get a positive direction.

66. *Lord Burnham*: It is an important constitutional point, sir, because if this is so, it is not true to say that the Assembly is debarred from discussing or dealing with defence.—Certainly not true, sir.

67. I myself have sometimes seen that stated. Well then, the other point that I want you to tell me about is with regard to the discussion of the Audit and Appropriation Report.—I am afraid I am not in a position to answer on that point, sir. (*Mr. Dunnett*): I think I will be able to answer, sir.

68. *Lord Burnham*: Please turn to page 61 of the memorandum. At the bottom of that page it is stated "The Committee (that is to say, the Public Accounts Committee) has claimed that it should be

"allowed, at least by convention, to go into the receipt side of the accounts. The Committee's claim to be entitled to examine receipts has been conceded, not by the establishment of a convention, but by interpreting the statutory rules as permitting the Committee to offer in its report criticisms and recommendations upon any matter discussed in the Audit and Appropriation Report submitted to it or in the Auditor-General's forwarding report where such matter concerns the accounts of expenditure, voted or non-voted, or those of receipts." That is to say, that they discuss on this report the policy involved in the expenditure, I suppose?—(*Mr. Dunnett*): I am not able to follow you, sir.

69. What I mean to say is that so far as I read pages 60–62\* dealing with this matter, a convention has been established by which all matters, voted and non-voted, that occur in the accounts are discussed from the point of view of policy as well and not simply on the financial results?—The basis of the position is twofold; they are in two sets of statutory rules. The Public Accounts Committee is set up under the last two rules of the Indian Legislative Rules, and I think the effect there is to give their functions the same extension as practically the functions of the Auditor-General; anyhow their interests are practically co-extensive with the Auditor-General's report. That again is governed by another set of statutory rules, rules defining the position and functions of the Auditor-General. Roughly, he is given two functions; he is to examine the regularity of the Government of India expenditure and the propriety; he is to conduct appropriation and administrative audit. I think the position we have been working to in the interpretation of these two sets of financial rules is that the Public Accounts Committee has a similar concern both with the appropriation side and the administrative side, that is to say, with the regularity and the propriety of expenditure—

70. *The Chairman*: What do you mean by "propriety"—whether it is a good or a bad plan to spend?—It means the application of the canons of financial propriety. These are defined in the Auditor-General's rules. There are five canons, defining the functions of the Auditor-General. "Regularity" means that money is applied according to the terms of the grant. In short, we are working to this interpretation of the statutory rules that the Public Accounts Committee has the same concern as the Auditor-General's report, that is to say, that it has these two functions irrespective of the distinction between voted and non-voted expenditure.

71. *Lord Burnham*: I see it is stated in the memorandum that "it may challenge not only the regularity of expenditure but also its propriety, even if it be not irregular." I only want to know whether that covers the policy which is being expressed in the expenditure or the receipts?—I think the policy would be rather the concern of the Standing Finance Committee which advises at an earlier stage before the expenditure is undertaken. But "propriety" refers to the canons of financial propriety. These canons are contained in the Auditor-General's Rules.

72. *The Chairman*: If one without an expert knowledge of Accounts were to read the sentence on page 61\* that "The Committee may challenge not only the regularity of expenditure but also its propriety," he will interpret it to mean that the Committee has got the power to say "why all this money is being spent on this subject, it would be better if much less is spent," and so on. That is one sense of the word "propriety." Is it used in that sense?—No, sir.

73. That is what I want you to explain to us.—Whether revenue should be expended on a certain purpose—that is, the general point of policy—comes up at the time the grant is made or the expenditure undertaken, if it is non-voted; that is to say, it comes before the Standing Finance Committee. The Public

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Accounts Committee deals with the method in which a grant for an approved policy has been applied. Therefore the two questions arise, first whether it has been applied regularly, that is, according to the order of the House in making the grant, and secondly whether it has been applied—I will avoid the word “propriety”—according to the canons which are laid down in the Auditor-General’s Rules.

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77. *Lord Burnham*: Supposing expenditure on the army is criticised when it is at this stage, supposing the question arose of the use of the Air Force to bomb certain places over the Frontier, would that be considered, or might it be considered, when this report was before the House of Assembly?—I should think not, and I think the machinery that at present exists would not bring that before the Public Accounts Committee. I think I have explained how the Army Appropriation Report comes before the Public Accounts Committee, because that also comes before the Public Accounts Committee.

78. I am trying to learn.—The army expenditure, of course, is the largest item of non-voted expenditure. Nevertheless, the Appropriation Report comes before the Public Accounts Committee. The army expenditure is audited on behalf of the Military Financial Adviser by an officer appointed by him. That audit and appropriation report is then sent to an *ad hoc* committee which I think is composed of officials only, and they act as a Public Accounts Committee, and they write their observations on the appropriation report of army expenditure. Then their report and the audit report of army expenditure go to the Public Accounts Committee, who are free to make their own comments on army expenditure, and the whole result is placed in the library of the House, just as the civil appropriation report is, and is available to members of the House, and is open to discussion in the House.

79. Subject, of course, to what you say, I should have thought that in all probability a general discussion of the policy of air retaliation at the Frontier could have been discussed under that head; but, of course, if you tell me it is not so I naturally accept it.—I have no practical experience of the audit, but I should imagine that a large question of policy of that kind would not then come up.

80. I see that at page 58\* you say that the Assembly has been able to use the weapon, as you call it, of finance to reduce army expenditure. “Secondly, agreement with the Executive Government has been secured when extraneous political questions were not at issue, and especially when the Assembly was single-minded in the pursuit of economy.” I see an example given when army estimates were reduced, and the taxation proposals curtailed. On page 57\* I see this: “On both occasions Government acquiesced in the amendments made by the ‘Assembly.’” What I want to know is whether there is any real distinction now between non-votable and voted expenditure?—The particular point I tried to make in writing on this subject was that control, mandatory power, and so on, does not rest in these matters with the Assembly; but nevertheless their influence has grown from day to day, and has even over these non-voted items become powerful. Its influence has grown.

81. Then should I be justified in saying that by indirect means, using finance as the weapon for this purpose, the Assembly has obtained power to deal practically with non-votable expenditure almost to the same degree as with voted expenditure?—No, not as far as that.

82. *Colonel Lane-Fox*: Just one question on the working of the Assembly. I suppose there are a considerable number of constituencies in which the agricultural population is overwhelming?—(*Mr. Graham*): Rural constituencies, as they are called, yes.

83. Are those represented by members who are recognised as agricultural members, and who work

together as an agricultural committee, and that sort of thing, as in the House of Commons?—I should say there is no link at all of that sort, and in fact a rural constituency is not infrequently represented by a member who has no particular interest in cultivation at all.

84. That is exactly what I thought.—He has not necessarily anything to do with the cultivators.

85. And therefore under the present system of enormous, unwieldy constituencies, agriculture is practically unrepresented?—It is really a very difficult question to answer, because we come into contact with the constituencies so very little. We have nothing to do with the machinery of the elections. The elections to the Assembly are a provincial subject, and we issue the writs and we receive the returns, but we are very little in touch with that side of it.

86. I suppose the real reason for this non-representation of the rural population is that the constituencies are so unwieldy that they are at the mercy of any political organisation which can put up someone, say a lawyer, who is prepared to take the job on?—Well, political organisation, except on behalf of one party, is in a most rudimentary condition in this country. (*Mr. Dunnett*): Might I make a suggestion to Colonel Lane-Fox in this connection? That is this, that the distinction between rural and urban representation was naturally given great prominence in provincial legislatures, and therefore the division of constituencies into rural and urban was made. There was no such effort in the Central Legislature. It is true that a few urban constituencies, I think seven urban constituencies, have been made, that is to say, the three presidency towns and the seven cities of the United Provinces formed seven urban constituencies; otherwise urban population and rural population are collected together in general constituencies, and there was no effort made to divide the two in the formation of constituencies.

87. But the net result of that, I gather, is that on the whole the rural population in a great many constituencies is overwhelming, but is in very few cases represented by a representative of that interest?—Well, the answer to that is twofold: first, we have no statistics, naturally, as the registers are by constituencies—we have no definite return that there are so many rural electors and so many urban electors; and the second answer, and I think it is perhaps a satisfactory one, is that actually the rural representation in the Assembly is considerable. The figures are given somewhere, but landholders and landowners are a very considerable element in the Assembly.

88. I suppose in actual working the fact is that territorial representatives are very difficult to obtain, owing to the enormous and unwieldy character of the constituencies, which is necessary when you have so few representatives for such a very large area of population, and therefore practically agriculture is not directly represented, and cannot be?—I have given the figures of the landholding personnel in the Assembly, and I think you will find it is considerable.

89. There is a great deal of difference between direct representation of a constituency where the constituents can call their member to task for what he does, and the sort of indirect representation to which I think you are referring?—It is difficult to take a broad view of constituencies which one does not know personally, but I think constituencies in which the urban population overwhelms the rural population would not be very considerable. I should imagine so, but of course I have no figures.

\* \* \* \* \*

91. *Mr. Cadogan*. I want to ask a question on the power to disallow resolutions. That power, I understand, is possessed by the President, and it is also possessed by the Governor-General in cases of resolutions the moving of which would be



23 November, 1928.] Mr. L. GRAHAM, C.I.E., I.C.S., and Mr. J. M. DUNNETT, C.I.E., I. C.S. [Continued.]

detrimental to the public interest, or which relate to matters which do not primarily concern the Governor-General in Council. Well, that power seems to have been used considerably by the Governor-General. What I want to ask is, do not these powers rather overlap—the powers of the Governor-General to disallow resolutions and the power of the President to do the same? For instance, would not it be competent for the President in the first instance to decide whether the resolution referred to a matter which was not primarily the concern of the Governor-General in Council? The object of my question is that I imagine every democratic assembly is resentful of authority by its side being used.—(Mr. Graham): Yes. Perhaps I can explain the position. There is the risk, if the President is very quick in admitting a resolution and if the department concerned is a little slow in going to the Governor-General, that the President may find himself overruled.

92. But do the powers overlap?—There may be some overlapping. Ordinarily it is managed quite smoothly by a little arrangement; that is to say, the President is told that the department concerned is going to take the orders of the Governor-General on a particular ground. It is only a question of a time-table and a little adjustment.

93. Colonel Lane-Fox: How much notice is required for a resolution?—Fifteen days.

94. Mr. Cadogan: I have one other broad, general question. Would you say that the interpellations, private members' Bills, resolutions and so on, betray the members' solicitude for the particular interests of their constituencies? Perhaps it is difficult for you to answer that question?—It is a little difficult when it is so general. I wonder if you could put it a little more narrowly?

95. We have been discussing the question of the unwieldy nature of the constituencies. A question was asked not long ago as to whether a member was really representative of the interests of his constituents, and whether he could bring them up?—These purely local matters are much more likely to come up in the provincial councils.

96. Yes, but I noticed that in this memorandum there was mention made of certain subjects which had been brought up which made it look as if these matters were sometimes raised. It is on page 71\*: "Other matters in which Government have accepted recommendations made in a resolution are the purchase of stores, female franchise, the position of Indians overseas, martial law administration in the Punjab, the prevention of overcrowding in railway carriages, pilgrim traffic, the protection of Dera Ismail Khan against erosion," and so on. That gives a sort of list, but perhaps it is too general a question to ask?—Generally speaking, the resolutions do cover a very wide ground; they are not really concerned with any single constituency. That was a particular case—the Dera Ismail Khan one—and it was rather unusual.

97. You are beginning to answer my question. You say it was unusual?—Yes.

98. The Chairman: Dera Ismail Khan is in the North-West Frontier Province, is not it?—Yes.

99. And therefore it could not be raised in a provincial legislature?—That is quite true.

100. Lord Strathcona: I have two questions about Ordinances. We see in section 72 of the Government of India Act that Ordinances have the force of law for six months. If the emergency is shorter than that, does the Governor-General repeal the Ordinance, and if it is longer can he extend it?—If the emergency is shorter, then the Ordinance would cease to operate; no action would be taken under it. There is no need to repeal it formally. If the emergency is longer, he has no power to extend it, but he will frame a fresh Ordinance. For instance, during the Moplah trouble in Malabar we had three or four Ordinances; the circumstances varied a

little during that time and we brought out fresh Ordinances.

101. Are they published in the same sort of way as a Royal Proclamation at home?—They are published in the *Gazette* like any other regulation.

102. They are not placarded up, and so on?—No.

103. We see also in section 67 of the Act, subsection (2) (iii), page 92, that the legislature may not repeal or amend any Act or Ordinance made by the Governor-General, but can the legislature discuss an Ordinance?—That means that the sanction of the Governor-General is first required for legislation. If he chooses to give it, then the matter would be open to discussion. Sanction was applied for in the case of the Bengal Ordinance for a repealing Bill and was refused.

104. As a matter of fact, has the Assembly or the Council of State discussed these Ordinances?—It could discuss them on the motion for adjournment, or it could discuss them on a resolution.

105. But has it actually done so in the past, do you know?—I rather think we had a resolution, but I cannot be quite sure.

\* \* \* \* \*

106. Sir Hari Singh Gour: With regard to section 67A, sub-clause (3), in regard to the discussion of military questions under the direction of the Governor-General, is not it a fact that the late Imperial Legislative Council had the power of discussing military questions without any sanction from the Governor-General?—I am afraid I had no connection with that body, and I cannot give you a reply.

Sir Hari Singh Gour: I raised this question on the floor of the House, and Sir Malcolm Hailey admitted it. In fact, I insisted on the discussion of military questions, and Sir Malcolm Hailey then consulted Lord Reading and said there was some confusion, because the late Imperial Legislative Council had the right to discuss military questions.

107. The Chairman: You mean, the leader of the House made that statement?

Sir Hari Singh Gour: In answer to a question I put to him.

108. The Chairman: He pointed out, did he, that that had been the practice in the earlier stages?

Sir Hari Singh Gour: Yes, and since then the Governor-General as a matter of course has given his direction for the discussion of military questions by the House.—I should not say "as a matter of course." I think it has been considered every time and the direction has quite regularly been given.

109. The point was discussed in the first Assembly?—I was not here and have not read the records.

\* \* \* \* \*

118. You have said, Mr. Graham, that your department was concerned with legislation, Bills and so on, and with seeing that the notification of Bills and orders is in proper form, and acts as the legal adviser to the various departments. Has your department any control over the policy of Law and Order, Law and Justice?—No.

119. That is controlled by the Home department?—Yes.

120. What are your relations with the Home department? You are attached to the Law department?—I am attached to the Legislative department.

121. There is an honourable Member in charge of the Legislative department?—Yes.

122. He has nothing to do with the laying down, the control of the policy of Law and Order, of Law and Justice? That is in charge of the Home department?—That is primarily the charge of the Home department, yes.

123. The Home department is not necessarily in charge of a lawyer?—No.

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## APPENDIX.

124. It has for a long time past been in charge of a member of your service?—Yes.

125. As regards the legislative work, what are your relations with the two Houses of the Indian legislature apart from the fact that you advise members officially and non-officially on the subject of Bills, and so on?—We actually provide the administrative staff which looks after the business of both Chambers; that is to say, we provide clerks at the table, and we provide all the clerks outside the House too.

126. I think you do a great deal more than that; at least, you used to do up till very recently. Your department was in charge of accommodation?—We are still in charge of accommodation, yes.

127. Has there been any conflict, to your knowledge, between your department and the Home department relating to the subject of Law and Order, or Law and Justice?—No; I do not quite see how any occasion for conflict would arise. Major questions of policy might be discussed in the Council of the Viceroy, and there might be a difference of opinion there, but of that I should not be cognisant.

\* \* \* \* \*

132. *Sardar Shivdev Singh Uberoi*: There are some members, non-officials, nominated on the Central Legislatures. May I know by which department the initiation of the nomination is taken—by your department or by some other authority?—Well, it is not really a departmental matter at all. Actually the secretary of the Legislative department carries it on as a go-between between the Leader of each House and the Governor-General, but it is not really a departmental matter at all.

133. Between the official Leader of the House and the Governor-General?—Yes.

134. I find that on page 38 of the memorandum\* it is given, beginning at the end paragraph of the previous page, as follows: "In this way the Sikh community, Anglo-Indians, Indian Christians, labour, the depressed classes, the North-West Frontier Province, European commerce and the Indian Army have secured representation, and prominent representatives of the country, who have been unable to enter through election, have been introduced into both Chambers." Thus it appears that nomination is made of members who have been unable to secure election?—Not for that reason.

135. That is put down here. Are there any other reasons except this?—Do I understand, *Sardar Sahib*, that you suggest that a qualification for nomination is to have failed to be elected?

136. That is what I understood from this.—I did not write this. I think Mr. Dunnett will say that he did not mean that.

*The Chairman*: If it requires to be corrected, let us have it corrected.

137. *Sardar Shivdev Singh*: It is in the middle of page 38.\* May I know what is the idea—that those who have stood in elections and have failed to secure election are nominated?—(Mr. Dunnett): I probably used these words to cover individual cases that were before me at the time, and I expect that they were chiefly cases of gentlemen of position whom it was advisable to have in the legislature who were unwilling to stand the trouble and turmoil of an election.

*The Chairman*: But may I suggest that it obviously has a wider application than that? Let me take two instances which are there in the sentence. It is said that that is why the North-West Frontier Province has secured representation. Well, it is no good saying that Sir Abdul Khan failed to get elected; there is nobody to elect him. Take, in the second place, the same sentence where it talks about the depressed classes having representation. Well, as things are at present—it may not remain so—the depressed classes can only be represented by nomination.

138. *Sir Hari Singh Gour*: It is the same in the case of Anglo-Indians.—That is so.

\* \* \* \* \*

## APPENDIX (see Question 91 on p. 140).

During the examination by the Joint Free Conference of the Home Secretary and Mr. Dunnett on the 22nd November, Colonel Lane-Fox observed that the constituencies of the Legislative Assembly were the largest in the world, and the Chairman asked to be supplied with a statement showing the total area in square miles of the aggregate of the territorial constituencies of the Legislative Assembly; the total number of members elected from those constituencies, and the result of dividing the former by the latter.

2. Under clause (3) of rule 6 of the electoral rules of the Legislative Assembly,

(a) "general constituency" means a non-Muhammadan, Muhammadan, European, non-European or Sikh constituency or the Delhi or the Ajmer-Merwara constituency; and

(b) "Special constituency" means a landholders' or Indian commerce constituency.

The Indian commerce constituencies are non-territorial except in Madras. The Landholders' constituencies in Madras, the United Provinces, the Punjab, Bihar and Orissa and the Central Provinces extend in each case to the whole province; the Bengal Landholders' constituency extends to the whole Presidency of Bengal excepting two backward tracts. The Bombay Presidency is divided in two Landholders' constituencies, namely the province of Sind and the Bombay Presidency excluding Sind. All these special constituencies have for obvious reasons been omitted from the attached statement.

3. Like the special Landholders' constituencies the general European constituencies of each province entitled to European representation in the Assembly, namely Madras, Bombay, Bengal, the United Provinces, Burma and Assam, extend, with minor exceptions, in each case to the entire province. These European constituencies have also been omitted from the attached statement.

4. The only constituencies included in the statement are the non-Muhammadan, Muhammadan, non-European (in Burma) and Sikh (in the Punjab) constituencies together with the Delhi and Ajmer-Merwara constituencies. Since (except in Burma where the division is between European and non-European) there are separate communal constituencies for Muhammadans and non-Muhammadans, and in the Punjab further communal constituencies for the Sikhs, it follows that the actual area of country represented in the Assembly, shown in the attached statement, for each province, except Burma, is duplicated by the addition to the area of the non-Muhammadan constituencies of the area of the Muhammadan constituencies, and is triplicated in the Punjab by reason of the further addition of the separate communal constituencies of the Sikhs.

5. If the areas of the Muhammadan and non-Muhammadan constituencies, together with the areas of the Sikh constituencies in the Punjab, be all retained in the calculation of the total area of the territorial constituencies of the Assembly, then the "area" divided by the "number of the elected members" gives the figure 21,292. If, to prevent duplication, the area only of the non-Muhammadan constituencies in the major provinces other than Burma, of the non-European constituency in Burma and of the Delhi and Ajmer-Merwara constituencies be taken into account in calculating the total area of the territorial constituencies of the Assembly, then the "area" divided by the "number of the elected members" gives the figure 11,117.

Sd. W. H. Lewis,  
Officer on Special Duty,  
Home Department,  
Government of India.  
17.12.28.

23 November, 1928.]

## APPENDIX.

[Continued.]

| TERRITORIAL CONSTITUENCIES OF THE<br>LEGISLATIVE ASSEMBLY. |  |  | Name and nature<br>of<br>Constituency. | Area in<br>square miles. | Total<br>number<br>of<br>Members<br>elected. |
|------------------------------------------------------------|--|--|----------------------------------------|--------------------------|----------------------------------------------|
| <b>MADRAS.</b>                                             |  |  | <b>BENGAL.</b>                         |                          |                                              |
| <i>Non-Muhammadan Urban.</i>                               |  |  | <i>Non-Muhammadan Urban.</i>           |                          |                                              |
| Madras City - - -                                          |  |  | Calcutta - - -                         | 32                       | 1                                            |
| <i>Non-Muhammadan Rural.</i>                               |  |  | Calcutta Suburbs - -                   | 169                      | 1                                            |
| Ganjam cum Vizagapatam - - -                               |  |  | <i>Non-Muhammadan Rural.</i>           |                          |                                              |
| East Godavari and West Godavari cum Kistna - - -           |  |  | Burdwan Division - -                   | 13,869                   | 1                                            |
| Guntur cum Nellore - -                                     |  |  | Presidency Division - -                | 17,316                   | 1                                            |
| Madras Ceded Districts and Chittoor - -                    |  |  | Dacca Division - -                     | 14,822                   | 1                                            |
| Salem and Coimbatore cum North Arcot - -                   |  |  | Chittagong and Rajshahi Divisions - -  | 24,455                   | 1                                            |
| South Arcot cum Chingleput - -                             |  |  | <i>Muhammadan Urban.</i>               |                          |                                              |
| Tanjore cum Trichinopoly - - -                             |  |  | Calcutta and Suburbs - -               | 201                      | 1                                            |
| Madura and Ramnad cum Tinnevely - -                        |  |  | <i>Muhammadan Rural.</i>               |                          |                                              |
| West Coast and Nilgiris - -                                |  |  | Burdwan and Presidency Divisions - -   | 31,185                   | 1                                            |
|                                                            |  |  | Dacca Division - -                     | 14,822                   | 2                                            |
|                                                            |  |  | Chittagong Division - -                | 6,572                    | 1                                            |
|                                                            |  |  | Rajshahi Division - -                  | 17,883                   | 1                                            |
|                                                            |  |  |                                        | 141,326                  | 12                                           |
| <b>BOMBAY.</b>                                             |  |  | <b>UNITED PROVINCES.</b>               |                          |                                              |
| <i>Non-Muhammadan Urban.</i>                               |  |  | <i>Non-Muhammadan Urban.</i>           |                          |                                              |
| Bombay City - - -                                          |  |  | Cities of the U.P. - -                 | -                        | 1                                            |
| <i>Non-Muhammadan Rural.</i>                               |  |  | <i>Non-Muhammadan Rural.</i>           |                          |                                              |
| Sind - - -                                                 |  |  | Meerut Division - -                    | 9,181                    | 1                                            |
| Bombay Northern Division - - -                             |  |  | Agra Division - -                      | 8,645                    | 1                                            |
| Bombay Central Division - - -                              |  |  | Rohilkhand and Kumaon Divisions - -    | 24,550                   | 1                                            |
| Bombay Southern Division - - -                             |  |  | Allahabad and Jhansi Divisions - -     | 20,682                   | 1                                            |
|                                                            |  |  | Benares and Gorakhpur Divisions - -    | 19,079                   | 1                                            |
|                                                            |  |  | Lucknow Division - -                   | 12,057                   | 1                                            |
|                                                            |  |  | Fyzabad Division - -                   | 12,101                   | 1                                            |
|                                                            |  |  | <i>Muhammadan Urban.</i>               |                          |                                              |
| Bombay City - - -                                          |  |  | Cities of the U.P. - -                 | -                        | 1                                            |
| <i>Muhammadan Rural.</i>                                   |  |  | <i>Muhammadan Rural.</i>               |                          |                                              |
| Sind - - -                                                 |  |  | Meerut Division - -                    | 9,181                    | 1                                            |
| Northern Bombay Division - - -                             |  |  | Agra Division - -                      | 8,645                    | 1                                            |
| Bombay Central Division - - -                              |  |  | Rohilkhand and Kumaon Divisions - -    | 24,550                   | 1                                            |
| Bombay Southern Division - - -                             |  |  | U.P. Southern Divisions - -            | 39,761                   | 1                                            |
|                                                            |  |  | Lucknow and Fyzabad Divisions - -      | 24,158                   | 1                                            |
|                                                            |  |  |                                        | 212,590                  | 14                                           |
| <b>PUNJAB.</b>                                             |  |  | <b>PUNJAB.</b>                         |                          |                                              |
| <i>Non-Muhammadan.</i>                                     |  |  | <i>Non-Muhammadan.</i>                 |                          |                                              |
| Sind - - -                                                 |  |  | Ambala Division - -                    | 15,503                   | 1                                            |
| Northern Bombay Division - - -                             |  |  | Jullundur Division - -                 | 19,394                   | 1                                            |
| Bombay Central Division - - -                              |  |  | West Punjab - -                        | 62,383                   | 1                                            |
| Bombay Southern Division - - -                             |  |  | <i>Muhammadan.</i>                     |                          |                                              |
|                                                            |  |  | East Punjab - -                        | 30,611                   | 1                                            |
|                                                            |  |  | East Central Punjab - -                | 10,459                   | 1                                            |
|                                                            |  |  | West Central Punjab - -                | 9,472                    | 1                                            |
|                                                            |  |  | North Punjab - -                       | 7,359                    | 1                                            |
|                                                            |  |  | North-West Punjab - -                  | 17,440                   | 1                                            |
|                                                            |  |  | South-West Punjab - -                  | 21,939                   | 1                                            |
|                                                            |  |  | <i>Sikh.</i>                           |                          |                                              |
|                                                            |  |  | East Punjab - -                        | 34,897                   | 1                                            |
|                                                            |  |  | West Punjab - -                        | 62,383                   | 1                                            |
|                                                            |  |  |                                        | 291,840                  | 11                                           |

\* Entitled to elect a second member for the first, third and succeeding alternate Assemblies.

† Entitled to representation in rotation to alternate Legislative Assemblies only.

24 November, 1928.]

Sir GEOFFREY CORBETT, K.B.E., C.I.E., I.C.S.

| Name and nature of Constituency. | Area in square miles. | Total number of members elected. | Name and nature of Constituency. | Area in square miles. | Total number of members elected. |
|----------------------------------|-----------------------|----------------------------------|----------------------------------|-----------------------|----------------------------------|
| BIHAR AND ORISSA.                |                       |                                  | ASSAM.                           |                       |                                  |
| Non-Muhammadan.                  |                       |                                  | Non-Muhammadan.                  |                       |                                  |
| Darbhanga cum Saran -            | 6,031                 | 1                                | Assam Valley -                   | 26,787                | 1                                |
| Muzaffarpur cum Champaran -      | 6,567                 | 1                                | Surma Valley cum.                | 25,317                | 1                                |
| Orissa Division -                | 13,736                | 2                                | Shillong -                       |                       |                                  |
| Patna cum Shahbad -              | 6,435                 | 1                                | Muhammadan.                      |                       |                                  |
| Bhagalpur, Purnea and            |                       |                                  | Assam -                          | 52,104                | 1                                |
| Santhal Parganas -               | 14,686                | 1                                |                                  |                       |                                  |
| Gaya cum Monghyr -               | 8,641                 | 1                                |                                  | 104,208               | 3                                |
| Chota Nagpur Division            | 27,065                | 1                                |                                  |                       |                                  |
| Muhammadan.                      |                       |                                  | BURMA.                           |                       |                                  |
| Patna and Chota Nagpur           |                       |                                  | Non-European.                    |                       |                                  |
| cum Orissa -                     | 51,950                | 1                                | Burma -                          | 173,114               | 3                                |
| Bhagalpur Division -             | 18,613                | 1                                |                                  |                       |                                  |
| Tirhut Division -                | 12,598                | 1                                | DELHI.                           |                       |                                  |
|                                  |                       |                                  | General.                         |                       |                                  |
|                                  | 166,322               | 11                               | Delhi -                          | 593                   | 1                                |
| CENTRAL PROVINCES.               |                       |                                  | AJMER-MERWARA.                   |                       |                                  |
| Non-Muhammadan.                  |                       |                                  | General.                         |                       |                                  |
| Nagpur Division -                | 22,760                | 1                                | Ajmer-Merwara -                  | 2,711                 | 1                                |
| C.P. Hindi Divisions -           | 59,349                | 2                                |                                  |                       |                                  |
| Muhammadan.                      |                       |                                  |                                  | Square miles.         | Elected members                  |
| Central Provinces -              | 82,109                | 1                                | GRAND TOTAL -                    | 1,788,524             | 84                               |
|                                  | 164,218               | 4                                |                                  |                       |                                  |

N.B.—The areas have been obtained by calculations made from the Census Tables of 1921.

## DELHI.

Dated, 24th November, 1928.

## PRESENT :

ALL MEMBERS OF THE COMMISSION (EXCEPT LORD BURNHAM) AND OF THE CENTRAL COMMITTEE.

Sir GEOFFREY CORBETT, K.B.E., C.I.E., I.C.S., Secretary to the Government of India, Commerce Department.

1. The Chairman: Sir Geoffrey Corbett, are you Secretary in the Commerce department?—That is right.

2. The department of which the Commerce Member is the departmental chief?—Yes.

3. Just tell us shortly what is the main work which your department does?—Our work is very much the same as the work of the Board of Trade in His Majesty's Government. We deal with shipping, with all matters relating to commerce and commercial treaties, with matters relating to tariffs, and in addition we have the Ecclesiastical department, and the office of the High Commissioner in London is also under us.

4. In what sense is it under you?—We are the administrative department that deals with the High Commissioner's office.

5. The High Commissioner for India in England, for example, is I think, engaged a good deal in recruiting?—Yes; but his office as a whole is under our administrative control. He works as agent for various departments of the Government of India and also of the local Governments; but the actual office and the pay of the staff and the appointments and so on are under our administrative control.

6. It is evidently an office of wide range. But I take it that for our immediate purpose the important matter would be the duties of your office in connection with matters of commerce and trade and in connection with tariffs?—Yes.

7. I think we were told by a previous witness that though the Commerce Member of the Viceroy's Executive Council is also in charge of the railways, so far as the secretariat goes the secretary for Commerce and the secretary for Railways are distinct?—Yes. The Chief Commissioner for Railways is Secretary to Government for Railways.

8. That does not come within your purview?—No, except that we are working in the same building and are in daily consultation with one another on any point of general interest.

9. \* \* \* I do not know whether you have with you now a copy—or I dare say you will be supplied with one—of the report of the Joint Select Committee on the Government of India Bill dealing with what is sometimes called the fiscal convention. The material passage occurs at the bottom of page 26. In that part of the report the Joint Select Committee discusses the limits of the intervention of the Secretary of State in matters under the charge of the Government and legislature of India. The Joint Select



24 November, 1928.]

Sir GEOFFREY CORBETT, K.B.E., C.I.E., I.C.S.

[Continued.]

Committee says, "In the exercise of his responsibility to Parliament, which he cannot delegate to any one else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest where the Government and the legislature of India are in agreement." So far that is quite a general argument. They then go on more particularly to the subject of India's fiscal policy. "This examination of the general proposition leads inevitably to the consideration of one special case of non-intervention. Nothing is more likely to endanger the good relations between India and Great Britain than a belief that India's fiscal policy is dictated from Whitehall in the interests of the trade of Great Britain. That such a belief exists at the moment there can be no doubt." They were speaking in 1919, were they not?—Yes, I think so.

10. They go on, "That there ought to be no room for it in the future is equally clear. India's position in the Imperial Conference opened the door to negotiation between India and the rest of the Empire, but negotiation without power to legislate is likely to remain ineffective. A satisfactory solution of the question can only be guaranteed by the grant of liberty to the Government of India to devise those tariff arrangements which seem best fitted to India's needs as an integral portion of the British Empire. It cannot be guaranteed by statute without limiting the ultimate power of Parliament to control the administration of India, and without limiting the power of veto which rests in the Crown; and neither of these limitations finds a place in any of the statutes in the British Empire. It can only therefore be assured by an acknowledgment of a convention." That is what is sometimes referred to as the fiscal convention?—That is correct.

11. It is not a convention in the sense of being a document?—No.

12. It means really a practice which tends to become a tradition?—Yes, that is right.

13. "Whatever be the right fiscal policy for India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty to consider her interests as Great Britain, Australia, New Zealand, Canada and South Africa. In the opinion of the Committee, therefore," (that is, the Joint Select Committee) "the Secretary of State should as far as possible avoid interference on this subject when the Government of India and its legislature are in agreement, and they think that his intervention, when it does take place, should be limited to safeguarding the international obligations of the Empire on any fiscal arrangements within the Empire to which His Majesty's Government is a party."

I read it at length because it is a very important passage. What I should like to ask you is this. One sees the suggestion or the scheme of the convention at the top of page 27. Now, Sir Geoffrey, please tell us if the convention thus defined has in practice been observed?—I think we, the Secretary of State and ourselves, have both done our best to co-operate in giving the convention real life. Difficulties may arise. But we have always met each other and the present position which has been reached by the convention is entirely in accordance with the spirit of this recommendation. We have had several opportunities of testing it, of course, in the activities of the Tariff Board about which I dare say you know.

14. I was going to ask you about it. But first of all, we have the general answer that speaking with your experience you tell the Conference that the convention which is there laid down has in fact been observed?—Yes, undoubtedly.

15. Observed with good will on both sides?—Yes.

16. Then tell us specifically about the present position of India in regard to tariffs?—We have several opportunities of testing the convention in the various recommendations that are made from

time to time by the Tariff Board, which is another body that is subordinate to the Commerce department. When we receive a report from the Tariff Board we send advance copies of it to the Secretary of State and we then consider it and we come to provisional conclusions on the action that we are going to take. We then telegraph them to the Secretary of State for his observations; and the Secretary of State, who has meanwhile been studying the report, either says that he has no observations to make or else he may make certain observations or suggestions or whatever the case might be. We then consider his observations and come to our final conclusions on the action that should be taken. It has been tacitly understood that the remarks that the Secretary of State makes are merely observations for our consideration, and he has never tried to force his views upon us. In fact in most cases he says he has no observations to make, and then we come to our final conclusion and place our conclusion before the legislature. If it is accepted by the legislature, the convention comes into play and the Secretary of State accepts that as final.

17. That is the machinery?—Yes, that is the machinery.

18. And then will you tell us what is the Tariff Board?—The Tariff Board consists of a president and two members, and applications for protection are made first of all to the Commerce department of the Government of India, and we consider whether there is a *prima facie* case. The applications are not made to the Tariff Board direct.

19. You say there is a president of the Board. How is he appointed?—He has been appointed by the Governor-General in Council. The president now is Sir Padamji Ginwalla, who was formerly the whip of the Nationalist Party in the first Assembly.

20. Did I hear you say that the Tariff Board is under the Commerce department?—Yes; it is appointed by the Governor-General in Council in the Commerce department.

21. On the recommendation of the Commerce department?—Yes; we are the administrative department which deals with the Tariff Board. An application is made to us, as I said. We consider whether there is a *prima facie* case; and if we consider that there is a *prima facie* case, we refer it to the Tariff Board for enquiry.

22. I do not want to rouse the inquisitiveness of the Members of Parliament here. They may have their own views on it. But in point of fact, do you mind telling me what a *prima facie* case means?—If the case as presented by the applicant body appears to fulfil *prima facie* the conditions that are laid down by the Indian Fiscal Commission as being essential before protection is given that is what it means. The conditions are first of all that an industry should have some natural advantage in the country either in the form of raw material, or good market, or cheap labour, whatever it might be. Secondly, it should not be capable of developing, or developing to its full extent sufficiently rapidly, without protection; and thirdly it should eventually be able to face world competition without protection.

23. Has any instance arisen in which that stage has been reached?—The Tariff Board was only appointed in 1923; but the first enquiry that was made was a most important enquiry into the protection of steel, and a certain measure of protection and certain bounties were given under the Steel Act of 1924 for three years. A further enquiry was made at the end of the three years, and the bounties were altogether withdrawn and the protective duties were substantially reduced, and protection was given for a further period of ten years at the end of which the Tariff Board consider that no further protection will be required.

24. You said that applicants come to the Commerce department and are referred to the Tariff Board to establish what is considered to be an adequate case. Then I gather that the Tariff Board might frame a scheme. It does not come before the

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Government of India as a whole?—Yes, certainly. It is examined departmentally by the Commerce department, and then the matter is always taken in council.

25. Are the communications to the Secretary of State for any observations he wishes to make made before or after the thing has reached the stage when the Government of India takes up the case for consideration?—The Government of India as a whole considers the case before the Secretary of State's observations are asked for.

26. And that I gather is before there is any legislative proposals?—Yes.

27. Then does the legislative proposal take the form of a proposed clause in the Finance Bill?—No. We always have a separate Bill for protective duties. That is simply a rule of procedure; there is nothing in the Government of India Act. But we find that it is more satisfactory to have a separate Bill for particular protective duties. We have a Bill to protect the steel industry, or a Bill to protect the paper industry, whatever it may be, in order to have a clear-cut issue on which the Assembly can give its decision.

28. That stage will of course be after the communication to the Secretary of State which you referred to?—Yes.

29. You have given us in general terms what the position is. What I should like to know is whether there is any important case since the Tariff Board has been set up when there has been in fact some intervention on the part of the Secretary of State which has prevented the proposal which the Government of India would otherwise have put forward to the Tariff Board?—No. And I may add, sir, that every proposal for protection put before the Assembly has been carried, so that we may say that the Assembly has confirmed the proposals that we arrived at after considering the observations of the Secretary of State.

30. The proposal to reduce the tariff on steel was made, I gather, in the year 1927?—Yes.

31. Was that in the same way submitted to the Secretary of State for observations before the proposed reduction was suggested?—Yes.

32. And did the Assembly in the same way agree?—Yes. That Bill was the only Bill on which there was at all a close division in the Assembly. That was not on the principle of protection, but owing to the fact that the Tariff Board recommended differential duties on continental and British steel. It was entirely on technical grounds, but quite naturally there was a certain feeling among certain parties in the Assembly that this was what they called "Imperial preference by the backdoor." It was not at all so really, and it was carried in the Assembly in spite of that suspicion.

33. Would the fact of lowering the duty on British steel be held as Imperial preference? I have not understood what you mean by "Imperial preference"?—There were people also in the Assembly, sir, who did not think so either. The point is that the British steel is of a higher quality than continental steel. Continental steel is very much cheaper and of lower quality, and it was competing with the Indian made steel to an extent that the British steel could not; and by having differential duties both classes of steel were put on the same footing for the purposes of competition with Indian steel.

34. *Sir Arthur Froom*: Arising out of the statement made by the Chairman in connection with the High Commissioner, the High Commissioner has also a Trades Commissioner, has he not?—Yes.

35. And does he work with the High Commissioner?—He is under the High Commissioner.

36. The present Trades Commissioner in London was at one time occupying the post of Commerce Secretary of the Government of India?—Yes, he did.

37. And now he is working under the High Commissioner?—Yes.

38. And he is working between the High Commissioner and the Commerce department in India?—Yes.

39. In connection with the Tariff Board you told the Chairman that the Tariff Board was under the Commerce department?—Yes.

40. But the Conference should not understand that the Commerce department in any way influences its recommendations?—We are very particular about that. As a matter of fact, the traditions of the Tariff Board were established by Sir George Rainy, who was the first president and is now the Commerce Member, and by Sir Padamji Ginwalla the present president, who was also one of the first members. It was always established that once the terms of reference have gone to the Tariff Board, the Commerce department takes no further interest in the case until the report is received. We do not have any communications with them at all on the subject.

41. Have there been many instances where the recommendations of the Tariff Board have not been acted upon?—No. We have generally acted upon their recommendations.

42. You always take action?—Yes. But we have to consider their recommendations. The line we generally take in dealing with a Tariff Board report is that we accept their findings of fact. We do not re-open their enquiry, and do not attempt to do their work for them again. We consider whether their recommendations follow naturally from the facts they found, or possibly there are other reasons.

43. In other words, the Commerce department can bring a wider view to bear on the recommendations of the Tariff Board. That does not cause any reflection on their recommendations?—Not at all.

44. In connection with the Bill for the protection of the steel industry you mentioned that in the case of the second Bill in 1927 a certain amount of discussion or debate arose in the Legislative Assembly, because it was held that a particular portion of that Bill gave rise to Imperial preference?—Yes.

45. Would you tell the Conference whether the Legislative Assembly as a body was in your opinion against Imperial preference?—They never expressed a definite opinion on the subject, but there is always a great anxiety amongst certain people in India which is really expressed in this passage which the Chairman read out from the Joint Committee's report, that the fiscal policy of India is dictated from Whitehall. They are very sensitive about that, and I think they always feel that anything which smacks of Imperial preference in any way is influenced in some way by His Majesty's Government.

46. Then in connection with the division of work in the Commerce department, I believe you are in charge on the commerce side, and the Chief Commissioner for Railways on the railway side?—Yes.

47. I suggest that those two sides are inter-related; for instance, you are in charge of ports?—Yes.

48. And ports and railways are connected?—Yes.

49. Will you explain to the Conference when you work together jointly?—The Chief Commissioner and myself tour together when we have to consider any harbour problem that has arisen.

50. Turning to commercial matters, have you noticed in the Central Legislature any tendency to introduce any distinction or discriminatory legislation in commerce?—We had rather a striking case at the last session in a private Bill introduced by Mr. Haji for the reservation of coastal traffic: That has been the most striking instance, I think.

51. Would you suggest that the Legislative Assembly is in favour of discrimination in such matters?—I should doubt very much whether the Assembly as a body would agree to any measure of discriminatory legislation of an economic nature.

52. *The Chairman*: What is the nature of the discrimination likely to be? Is it the discrimination between enterprises which are substantially owned by Indians, or by persons domiciled in India?

*Sir Arthur Froom*: Yes, sir.

53. *Sir Hari Singh Gour*: Mr. Haji's Coastal Bill was for the purpose of having ships plying near the Indian coasts registered in India. If they are

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owned by Englishmen, they must be registered in India.

*The Witness*: That is not correct, Sir Hari Singh Gour.

*The Chairman*: I certainly did not understand that that was the whole of his Bill.

*The Witness*: 75 per cent. of the ship had to be owned by Indians. That was the purport of the Bill.

*Sir Arthur Froom*: I do not want to make any special reference to that.

54. *The Chairman*: It is not really of any constitutional importance, I think, from our point of view except of course that the general subject of the constitutional power of the legislative bodies may be thought to raise the question as to whether discrimination of that sort is a matter of complete latitude. We had the suggestion made in a wholly different connection in a province that there ought to be some provision to the effect that no law should be passed by a provincial legislature which would introduce discrimination between one community and another as regards its right to acquire agricultural land. And I pointed out then that the only thing of importance there was whether or not these considerations make it important for us to consider whether or not there are to be any limits upon the legislative power. There is nothing else I think which is material to us.

*Sir Arthur Froom*: Yes.

55. *Sir Arthur Froom*: Speaking about this Coastal Traffic Reservation Bill, was there not in the Assembly a suggestion that similar legislation should be introduced in all sorts of other cases also?—There was. I remember an exclamation from some member or members. My recollection is that Sir James Simpson said, "If you apply this discrimination to 'shipping, why not to other industries?'" And certain members called out "Why not?" I do not think the case was ever argued.

56. But it was raised?—Yes, it was.

57. One other point. Could you visualise in any future constitution of India, in times to come, when there is a considerable advance of self-government in the various provinces, that the control of commerce could split up among the various provinces, or would you think that it must continue to be a central subject?—One can visualise almost anything, but—

*Sir Arthur Froom*: I am asking your opinion, supposing it was suggested that each province should control its own commerce?—

58. *The Chairman*: Do you think in your experience, it will work?—No, I should say. You might get to the same position as in Eastern Europe, in which the whole economic welfare, and even peace, is threatened by the fact that it has been broken up into small economic units. The whole tendency nowadays, as expressed by the League of Nations, is to break down these inter-State barriers and work in a large economic unit. And I think I would go further and say that the history of other countries more or less similar to India, where you get a congeries of States as in Germany and the United States, and even in England, shows that economic prosperity has naturally followed from the fact that they had joined together into a common economic unit.

*The Chairman*: In so far as tariffs and Customs duties are concerned of course I should think everybody would feel the force of that argument, but I am not quite clear myself that in other matters there are not any limits.

*Sir Arthur Froom*: I had in mind the administration of ports.

*The Chairman*: I may tell you, I dare say you know, that it is possible under the Canadian Constitution for a company to be registered in a province and the different provinces may have different laws which have to be satisfied before those companies are allowed to operate in them. Yet it is possible in fact to regard such a company as having activities elsewhere in the province. It is a very complicated thing.

*The Witness*: The question Sir Arthur Froom asked was about commerce, and I find it extremely difficult to dissociate commerce from tariffs and customs duties. Of course, I can quite well see the possibility of having different company laws in different provinces. But I should think it will be an extremely inconvenient way of working things. Our company law is based on the English law, and we are in favour of spreading the uniformity of company laws as far as we can. And I think the tendency that you find in the League of Nations, and also in the Empire generally is to extend uniformity in all commercial and maritime laws. Now where you are working on the widest possible unit, you can do that; but if you split up into small units, it would be a definitely retrograde and uneconomic step.

59. *Mr. Kikabhai Premchand*: Would it be desirable to take over the ports and the cities adjoining such ports under the Central Government?—Well, as far as ports are concerned, the actual ports themselves, and what you may call the actual port limits, are already a central subject; that is the major ports.

60. *The Chairman*: You spoke about the major ports being under the Central Government. You mean such ports of British India as are declared to be major ports either by rule or by legislation? About half a dozen of them I think you have?—Yes. But the point is, we do not take over the adjoining cities. It is only the port limits that are taken over, which is, you may say, the junction of a railway on one side and shipping on the other; but we never contemplate carving out a city and bringing it under the central administration. That would be having a series of Delhis scattered all over India.

61. *Mr. Kikabhai Premchand*: Are there not some ports which are not developed because they were not connected with railways?—But a port would not be complete without a railway.

62. There may be some other conveniences. There are certain ports like that?—Can you mention one? Then I can tell you.

63. Say, Tuticorin?—Very large sums of money are being spent now on Tuticorin, and I believe the suggestion is made that large sums of money are being wasted. I think the development of ports is in the interest of railways. I cannot visualise the development of a port which would not be in the interest of the railways.

64. *Sir Hari Singh Gour*: You were speaking about the Coastal Traffic Bill and you have replied that to your mind it is not an isolated Bill. The Legislative Assembly had three different motions before it, one for the creation of a Royal Navy in India, another for the mercantile marine and the third is the Coastal Bill. The underlying principle, I understood, of all these three Bills was that Indians were not given facilities for training at sea by the European companies trading in India. The complaint against the Royal Navy Bill was on the ground that there would be only one Indian who would be recruited in the year and that at that rate it would take generations before half a dozen Indians were trained up to be officers in the navy?—I can say nothing about the Royal Navy, it is not my concern. But I understand the object of reserving the coastal trade is to secure the profits of the coastal trade for Indians, and the actual question of training Indians to be sailors—

65. Not as sailors but as officers?—That is entirely subsidiary.

66. Was not that the main grievance at the time of the Mercantile Marine Bill?—You may be aware, Sir Hari Singh, that we have a training ship at Bombay, and Messrs. Mackinnon Mackenzie, the agents of the P. & O. and B.I.S.N. companies, and all the leading firms who are trading in the coast of India, have undertaken to take apprentices from the training ship.

*Sir Arthur Froom*: That was a recommendation of the Indian Mercantile Marine Committee.

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[Continued.]

67. *Sir Hari Singh Gour*: But that was necessitated by the fact that before the Reforms the European shipping agencies in India did not receive Indian apprentices for training on board their ships. —There were no apprentices to receive until the *Dufferin* was started.

68. I am not talking about the *Dufferin*, but of the European companies trading within India. —But you cannot take them until you have them. If there are no Indian cadets, how can they take Indian apprentices?

69. No effort was made by the Government of India to train Indians as seamen and as officers? —Not until the *Dufferin* was started. That is correct.

70. That was started under the reformed constitution? —Yes.

71. When was it started? —Two years ago—not quite two years, I think.

72. Not even two years? —Yes.

73. Is it more correct to say about a year ago? —About eighteen months ago.

74. How many Indians are now under training in that ship? —Thirty a year at present.

75. Now, as regards this convention about granting fiscal autonomy to India, you say that you send up your provisional recommendations to the Secretary of State? —The provisional proposals.

76. Yes, you send up the provisional proposals to the Secretary of State and the Secretary of State thereupon makes some observations sometimes, and sometimes he has no observations to make? —Yes.

77. Have you ever come to a decision, a final decision, without reference to the Secretary of State? —No.

78. If you will kindly read the passage at page 27 (Joint Select Committee's Report) you will see this: "In the opinion of the Committee therefore 'the Secretary of State should as far as possible 'avoid interference on this subject when the Government of India and the legislature are in agreement.' That is to say, as soon as the Government of India and the legislature are in agreement the Secretary of State stands aside? —That is correct.

*The Chairman*: What it says is that when that happens he should as far as possible avoid interference. It goes on to say what are the exceptional cases in which he should intervene.

79. *Sir Hari Singh Gour*: Subject of course to what follows. What I mean is this. Has there been any case, or have there been any cases in which in response to the observations made by the Secretary of State the Government of India had modified their tentative proposals? —We might have modified in small details. He might have made some very pungent criticism of some mistake we had made or some miscalculation. But I can recall no case in which there was any material alteration in principle.

80. Are those tentative proposals brought to the notice of the legislature? —No. We bring up the final proposals.

81. Consequently the legislature has no means of knowing what your provisional proposals were and how far they have been modified in consequence of the observations made by the Secretary of State? —No.

82. In other words, how far your proposals were uninfluenced by the Secretary of State and how far those proposals have since been influenced by the observations of the Secretary of State? —No, they do not know.

83. Is not that a complaint with the Legislative Assembly in regard to the question of granting fiscal autonomy to India, in regard to the upholding of this convention whereby when there is agreement between the Government of India and the legislature the Secretary of State should not interfere? When the Government of India itself is subject to the supervision, direction and control of the Secretary of State it deprives the Government of India of that power which it otherwise would have had of deciding for itself? —It would, if the Secretary of State

exercised supervision, direction and control in this matter; but in this matter it has never been his practice to do so. He merely makes his observations, which we may accept or reject as we like, and we do not always accept his observations.

84. Now, as regards the question of Imperial preference, you say that the Legislative Assembly naturally is sensitive to the question of Imperial preference. A question was put by Sir Arthur Froom as to whether the Legislative Assembly is opposed to Imperial preference, and you said that there have been certain observations from members but no decision? —Yes.

85. Is it not the sense of the Legislative Assembly that Imperial preference as such must be a matter of contract between India and England? —I should say so.

86. That England cannot force in some subtle and indirect manner Imperial preference upon India? —That is right.

*The Chairman*: England has not attempted to do so.

87. *Sir Hari Singh Gour*: Nobody suggests that. But that is the feeling. India is quite prepared to have Imperial preference, but as a matter of contract? —Yes. They do not object to Imperial preference as such, but they want to be sure what the economic advantage in any particular case would be. If there is an economic advantage I do not think there will be any opposition; but it will be considered from the business point of view, not from the sentimental point of view.

88. That point of view was expressed I think in connection with the Cinema Enquiry Committee. It was suggested that 20 per cent. of the films should be British, but the other side said that you must at the same time develop our films and a similar percentage of our films should be taken in England? —Yes.

89. In other words, some sort of reciprocity? —I can recollect that when this question was debated by the Council of State, the leader of the swaraj party agreed with the idea that there was great advantage in Empire films being used within the Empire, in order that the different parts might get to know each other. I remember that quite well.

90. Consequently India is not opposed to Imperial preference? —No. I never suggested that. I say that she is not in favour of Imperial preference from sentimental considerations; but if in any particular case it turns out to be to her economic advantage to have some kind of preferential tariff with any part of the Empire, I do not think they would oppose it on sentimental grounds, at least the majority would not oppose it.

91. In connection with the Steel Bill you remember the question of Imperial preference was raised. Was not that Bill carried by a small majority? —Yes, by a small majority.

92. I do not think you remember the majority? —It was 6 or 7. Very small.

93. Now as regards your department. Commerce and Industries formed one department, is it not? —Yes.

94. Industry is now a transferred subject? —Not in the Government of India.

95. In the provinces? —Yes, that is right, the development of industries.

96. And how is industry co-related to commerce? Are they not two? —The Department of Industries and Labour in the Government of India.

97. I am not talking of the technical side of it. Industries and Commerce went together and were in charge of one Member because they were regarded as allied departments. Now the fact is that "Industries" has been provincialised and transferred. Does it affect the development of industries? —Well, I think you should ask the Industries Secretary about that.

98. *The Chairman*: Mr. McWatters? —Yes. It is only when an industry wants protection that it comes to us.



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99. *Sir Hari Singh Gour*: Has there not been a development of industries since their provincialisation and transfer?—I could not answer that. The major industries that come to us are really All-India industries, and not provincial industries at all.

100. Consequently you do not know?—No.

101. *Sir Zulfiqar Ali Khan*: Could you tell me if you are Secretary for Railways also?—No. The Chief Commissioner also acts as Railway Secretary.

102. Could you please tell me if there is any correspondence taking place between the Government of India and the Home Government?—I do not know on what point.

103. With regard to this Imperial preference?—There is no correspondence on the subject to my knowledge.

104. So, that question is not being discussed at present?—It was discussed at the Imperial Conference, and its proceedings are published. If you look up the proceedings of 1923 when it was discussed, you will find what attitude was taken by Sir Charles Innes representing the Government of India and the Indian delegation, of which the Secretary of State was the leader.

105. May I know if the Government of India themselves are considering this point?—No.

106. *Sir Arthur Froom*: Sir Geoffrey, might I ask you if you consider it part of your duty as Commerce Secretary to keep yourself in touch with commercial opinion throughout the country, both Indian and British, and might I suggest that no great step or alteration or legislation affecting commerce is ever taken without some such enquiry throughout India of all commercial bodies?—Yes, we always consult all commercial bodies either by letter, or if the matter is an important one, we always go and discuss with them personally the terms of the Bill that we are going to bring forward, except of course tariff Bills.

107. So the Commerce department is not merely administering from the heights of Simla or from Delhi?—No, we are very much in touch with commercial bodies in all commercial centres.

108. With every commercial body, whether Indian or British?—Yes, Indian or British.

109. *Lord Swathcona*: One question about commercial treaties. It appears that India has not the power to enter into direct negotiations with foreign countries in the same way that I think the Dominions can and that India has separate conventions with foreign powers which are negotiated through the Foreign Office?—Yes, that is correct.

110. Do you consider the fact that these conventions are negotiated through the Foreign Office on behalf of the Government of India is in any way detrimental to the interests of India?—Very much to her benefit. We have the experienced advice and assistance of the Foreign Office, and His Majesty's Ambassadors to negotiate our affairs for us in a way that we can never hope to do.

111. And it causes no delay?—They are extremely prompt.

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115. I should like to ask you about the representation of commerce in the Legislative Assembly. What is the total representation?—There are 4 members in the Assembly representing Indian commercial interests. The Indian Merchants Chamber of Bombay has a representative; and for Bengal, the Bengal National Chamber, the Mahajan Sabha and the Marwari Association elect a member in rotation, i.e. one for the first Assembly, one for the second Assembly and one for the third Assembly. For Madras, a member is elected to represent Indian commerce by all Indian firms paying income-tax on incomes of not less than Rs. 10,000 derived from business; and then there is a representative of the Bombay millowners and Ahmedabad millowners in rotation. In the Council of State European commerce is represented; there is one member for the Bengal Chamber, one for the Bombay Chamber and one for

the Burma Chamber. Indian commerce is thus represented in the Assembly and European commerce in the Council of State. It has been a grievance on the part of the European commercial bodies that they are not represented in the Assembly.

116. I suppose there is a considerable number of business men from other constituencies who are directly elected?—Yes.

117. In your opinion has commerce and industry on the whole been given a fair show in the Assembly?—The general view of the Assembly is that it has been given too much of a show.

118. That means the majority do not care?—It is sometimes said that nearly all the legislation is commercial.

119. The representation in the Assembly is not confined either to European or Indian but it represents both?—The special commercial representation in the Assembly is entirely Indian, but the representatives in the Assembly from the general European constituencies are often commercial men; and as a matter of fact in order to meet the complaint that the European commercial bodies made that they had no direct representation in the Assembly, we have arranged in the last two Assemblies to nominate one member to represent the Associated Chambers, that is, the European Chambers.

120. Is there any feeling of antagonism between Indian and European trade in the Assembly?—Undoubtedly.

121. Is it not rather a mistake to have a special section of commerce represented, either for European or for Indian?—I think strong arguments could be urged against it. But on the other hand it is only fair to say that the Coastal Reservation Bill to which a reference was made was introduced by a member elected by a general constituency, and not by the member elected by the commercial constituency.

122. I suppose the trouble is that you cannot get direct representation of commerce except through some formal body which would be either European or Indian?—No; but on the other hand there are quite a number of business men, elected both by European constituencies and by Indian general constituencies. I am not prepared to say that special representation in the Assembly is necessary in the interests of commerce.

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*The Chairman*: Gentlemen, if you consider the present composition of the Legislative Assembly, you get one elected European member for Madras, one elected European member for the United Provinces, two elected European members for Bombay, three elected European members for Bengal, one for Assam and one for Burma. So that if in their cases business people get returned, you have, though under a different title, gentlemen who might be expected to understand the problems of European commerce. Do you think, Sir Arthur Froom, that the arrangement of distributing the European commercial elected members in this way works well?

*Sir Arthur Froom*: The European Chambers of Commerce have always held that there should be seats for them in the Legislative Assembly where the majority of legislation starts.

*The Chairman*: Of course one of the non-official nominated seats is held by a representative of the Associated Chambers of Commerce, but this has been done under the discretionary power vested in the Governor-General to nominate. It is not in the rule; it is not done in the same way in which those five nominated non-official members are chosen, namely the representatives of the Depressed Classes, Anglo-Indians, Labour Interests and Indian Christians—

*The Witness*: A member representing the Associated Chambers of Commerce was nominated in response to a demand from the European Chambers that they should be given representation in the Assembly; it is comparatively recent.

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*Sir Sankaran Nair* : With reference to that, may I point out, sir, that Government themselves have actually said that European representation means representation of European Commerce because commercial men have always held the majority of general seats in the Assembly.

*The Chairman* : I am much obliged to you. That is, I gather, the view of the members of the Assembly as well ?

*Sir Hari Singh Gour* : Yes, sir.

125. From page 26 of the report of the Joint Select Committee on the Government of India Bill the Chairman read out to you : " Nothing is more likely to endanger the good relations between India and Great Britain than a belief that India's fiscal policy is dictated from Whitehall in the interests

" of the trade of Great Britain. That such a belief exists at the moment there can be no doubt." That was in 1919. Was it not kept alive by the continuance of the cotton excise duty ?—You are a better judge than I am ; but anyhow you know, Sir Hari Singh, that the very moment the finances of the Government of India permitted, I think it was the first tax to be removed.

126. Was there not a feeling shared by the Government of India, namely that the cotton excise duty was dictated from Whitehall ?—I think you will find the history of that fully related in the Fiscal Commission's report, which is the most authoritative statement on the subject.

127. The feeling was not without foundation ?—In that respect, yes.

**Mr. G. S. BAJPAI, C.I.E., C.B.E., I.C.S., Secretary to the Government of India,  
Department of Education, Health and Lands.**

128. *The Chairman* : Mr. Bajpai, you are the Secretary of the department of Education, Health and Lands ?—Yes.

129. I suppose we may take it that the department besides dealing with the subjects mentioned in its title deals with many others ?—It certainly deals with those three and many other matters.

130. Would you like to tell us about it further ?—Yes, sir. There is Emigration, for example, which is one of our important subjects, emigration from British India and immigration into British India, and then we have such matters as Archaeology, the Botanical Survey, the Zoological Survey, the Survey of India and other subjects.

131. You deal with a variety of subjects. When one sees it, one finds that you deal not only with subjects which are central but that you also deal, as far as the Central Government deals with this matter at all, with a number of transferred subjects ?—Yes.

132. Education, for example ?—Yes, Education, Medical Administration, Public Health, Agriculture, and Co-operative Credit.

133. We will not go into all those now, but taking Education purely as an example, I imagine that as Education is a transferred subject in the provinces, each province will have its Education department. I suppose when you pass outside the nine provinces, to the North-West Frontier Provinces or to the Delhi Province, then it must be a central subject and I suppose it falls definitely to the charge of your department ?—That is so, sir.

134. As we have an Auxiliary Committee on Education which is working very industriously and which is going to give us its review at the end of next month, I do not think we need go into that now. Perhaps you will just tell me this generally since your department takes an interest in so many transferred subjects. Rule 49 of the Devolution Rules says, " The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall in relation to transferred subjects be exercised only for the following purposes, namely : " And my colleagues would remember what those purposes are. They are strictly limited. Now to what extent, in practice, if at all, does the Government of India find it right to interfere, under the exceptions of Rule 49, with the administration of a transferred subject ?—Within my experience of the department, sir, which now extends to nearly six years, I do not remember a single instance in which we have had to exercise our powers under Devolution Rule 49.

135. When one considers what the exceptions are, " to safeguard the administration of central subjects, " to decide questions arising between two provinces, " and so on, it is not really easy to see how in practice interference is necessary. As I said, we do not go

into Education as a subject this morning. But taking it as an illustration, take primary education. Do I understand rightly that primary education as a topic is in practice dealt with by the provincial Governments without intervention or assistance from the Government of India ?—That would be a correct assumption to make, sir. The only modification of that statement that I might suggest is that it may be necessary for a local Government, in fact it would be necessary for a local Government, after legislation in the province, to submit the Bill relating to primary education to the Governor-General for assent. But then that is submitted to the Governor-General and we merely come in as a department to advise.

136. That is not really an exception to what you were saying, is it ? It is merely under the Constitution that the Governor-General in his character as head of the Government of India has a certain part to play before the Bill becomes an Act ?—Yes.

137. I would like to know this. Supposing that the Education department of one province or the minister of the province desires to communicate with the corresponding minister of the department in another province, does he in fact do it through the Government of India or direct ?—It is open to him to do it direct. He need not go through us.

138. The members of the Conference have seen—I dare say some have read—the very elaborate quinquennial educational surveys issued by the different provincial Governments. They of course come up here and I dare say they are studied and analysed and all that. But I gather that each of these reviews is really a reproduction of the provincial surveys ?—As a matter of fact the position in regard to that is that the Educational Commissioner with the Government of India issues a quinquennial review of educational progress and the local Governments make use of our quinquennial review for the issue of similar publications themselves.\*

139. We do not dispute the pride of authorship ?—The pride of authorship belongs to the Educational Commissioner.

140. The situation is this apparently as regards that subject, that being a transferred subject in the province, the Provincial Government, the legislature or the minister deals with it without the Central Government intervening and whatever funds may be spent upon it are not derived by grants-in-aid from the Central Government ; so the Central Government has no control through that ?—None.

141. I do not know whether it is permissible to ask you this, Mr. Bajpai, please decline to answer

\* The witness subsequently intimated that the Quinquennial Review of Educational Progress in India issued by the Educational Commissioner is prepared from similar Reviews prepared by provincial Governments. In other words, the Quinquennial Review is based on provincial Reviews.

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[Continued.]

if you think it an unfair or an inconvenient question. In your experience do you think that is a satisfactory arrangement or would you yourself be glad to see it altered?—I will express my own personal and provisional opinion in answer to that question and that is very definitely that the system is not a satisfactory system. It seems to me that primary education in particular is not so much the obligation of any one province as the obligation of India as a whole. I may call it a national obligation and whereas I would never for a minute postulate that the Government of India should actually interfere in the administration of primary education, I should certainly like to see a state of affairs in which the Government of India would be able to stimulate primary education by grants-in-aid; but they cannot do so at present.

142. That is a question which we might discuss when we receive the report of the Education Committee. I would just like to ask you this question, because we may hear something about it from the deputation on Monday. We are going to hear the Anglo-Indian deputation. Has not it been sometimes mooted that European and Anglo-Indian education might be centralised?—Yes, on several occasions since 1921.

143. I do not want to anticipate the deputation; but can you just help us about that?—Four arguments, as far as I can make out, have been urged in favour of centralising European and Anglo-Indian education. The first is that by centralising it you would ensure unity and efficiency of control. The second argument urged in favour of it is that you would thereby place the question of financial assistance being given to European and Anglo-Indian education on a more liberal and more stable basis. The third argument which has been urged in favour of it is that you would thereby prevent waste which at present takes place as a result of overlapping.

144. Do you say that there is waste at present or is it merely a part of the argument?—I am merely stating it as part of the argument which has been put forward by those interested in the centralisation of the subject. The fourth argument which has been put forward in support of the proposal is that you would thereby remove this question from the arena of racial and political trouble in the provinces. Those are the four arguments which have been put forward in support of the proposal. As against these of course I think there are certain arguments. The first is that the mere vastness of India renders it impossible that centralisation would ensure either unity or efficiency of control. The second is that far from removing this question entirely from the arena of political trouble, you will be transferring political or racial controversy from the provincial legislative council to the central Legislative Assembly; and the argument—a basic argument—which occurs to me is that if you centralise European and Anglo-Indian education then you defeat the one main object which the European and Anglo-Indian community say they have all the time in view and that is that they should become an integral part of the bulk of the community in India. After all, education is a process that represents a stage, a formative stage, when you can to some extent facilitate or stimulate the process of integration and you are not going to do this if you cut a community adrift from the general educational arrangements or system in force in the provinces.

145. That conveniently summarises the pros and cons. There was, was there not, a year or two ago, a conference of Directors of Public Instruction in the different provinces about it?—Yes, in January, 1927, we had a conference of the provincial education administrators, and they discussed this question among others. I am speaking from memory but I think I am stating their conclusion correctly in saying that almost the unanimity of opinion was against centralisation.

\* \* \* \* \*

148. Colonel Lane-Fox: I suppose there is some

research work done in this country?—Not all research, sir, but some very important branches of research are under us—medical research, agricultural research, forest research.

149. Agricultural research is under you?—Yes, that is under us. We also have a veterinary institute at Mukhtesar. We have got an experimental farm for the production of sugar-cane in Coimbatore. That is under us. In fact we may say that all the important agencies for agricultural research are under our control.

150. The Chairman: I am interested to know what your department does. Let us take for example a very important agricultural institution which some of us had the advantage of visiting in Punjab. Is that under the Punjab Government, or under the Government of India?—That is under the Punjab Government, sir, I was just going to state the difference. The Agricultural College which you saw at Lyallpur is primarily an educational institution. I do not know that they do very much research there. The main research activities for which the Government of India take credit are done through agencies and institutions under us.

151. Colonel Lane-Fox: But there is considerable research work going on at Lyallpur?—I am very glad to hear that, sir.

152. Anyhow that is under the provincial Government?—Yes; that is under the provincial Government.

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155. The Chairman: Would you just tell me, Mr. Bajpai, research work under modern scientific conditions, whether it is medical research, or whether it is agricultural research, whatever it may be, of course is being conducted now in your department largely I think by the comparative method, is it not, I mean by the interchange of specialists of investigation between one department and another?—Yes.

156. My recollection is that, for example in Canada, the research organisation in Canada is centralised. Is that not so?—Yes.

157. And I think the same thing is true in other places, South Africa, for example.—Looking at it from that point of view, as regards the local research you have been referring to, such as the medical research, agricultural research and so on, is it important to organise it in India not only for the purpose of seeing that here in India progress is made, but for purposes of bringing into existence a system of interchange between different parts of the world?—That certainly, sir, is an objective to be aimed at and an objective which we have always kept in view, and I may say that although no interchange in the sense that you mentioned, namely, our workers going abroad, and workers from abroad coming over here, has actually taken place, interchange of ideas certainly we have had. And in the medical sphere particularly opportunity for that has been provided by our membership of the Office Internationale d'Hygiene Publique in Paris, and by our membership of the Health Committee of the League of Nations.

158. And I gather that your experience of the study of the subject does lead you to think that that should rather be looked at as a thing to be distributed from the centre?—Quite so, sir. There is of course item 33 here in Part I of the Devolution Rules which definitely says that "Central agencies and institutions for research (including observatories), and for professional or technical training or promotion of special studies" are a central subject.

159. But you do not suggest any change in the distribution of powers over subjects under this head?—Of course, sir, the wording of item 33, as I read it, does not prevent a province from undertaking research on its own account if it chooses to.

160. Raja Nawab Ali Khan: Will you please tell me how many of the services in your department are under the control of the province?—I do not quite follow the implication of that question. There are three main transferred subjects—the Indian Medical department, the department of Agriculture, and the

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[Continued.]

department of Education. Up to 1924 we had, and in fact we have even now, an Indian Educational Service, an Indian Agricultural Service, Indian Veterinary Service, and Indian Medical Service. We have these four services, but whereas formerly they were All-India services recruited and controlled on an All-India basis, the position now is that you have merely a collection of officers who belong to these services and who are still serving in the provinces. For the rest, now local Governments have the power to bring into being their own educational service, agricultural service or veterinary service, or forest service, the last named in Burma and Bombay only.

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174. *Sir Zulfiqar Ali Khan*: You have now under the Government of India a Commissioner for Education?—We have an Educational Commissioner here.

175. What are his functions?—The Educational Commissioner's functions now may be classified under three heads. First with regard to universities: He gives us advice in regard to universities which are central subjects, e.g. Aligarh, Benares and Delhi. Those are the three Central universities. Secondly, he would advise us from the technical point of view in regard to any legislation which may come up to the Government of India from provinces either for previous sanction, or for the assent of the Governor-General. Thirdly, he is our principal technical adviser in regard to education in the three principal directly administered areas, that is to say, the North-West Frontier Province, Ajmer-Merwara and Delhi. That represents his work for us as a department. But in addition to that he advises the Foreign and Political department about Chiefs Colleges, and he advises also the Army department as regards the examination of candidates for Sandhurst.

176. Supposing the provinces get autonomy, then would you abolish this office?—It will all depend on whether we have or we have not any connection with education.

177. *Sir Hari Singh Gour*: Was it not one of the recommendations of the Inchcape Committee to abolish that?—Yes; it was, but we did not accept it.

178. *The Chairman*: Was that recommendation in the interests of education or of economy?

*Sir Hari Singh Gour*: If I remember right, sir, it was in the interest of both.

*The Witness*: Primarily in the interest of economy.

179. *Sir Hari Singh Gour*: But they have mentioned also that Education was a transferred subject and in consequence arising out of the observations made by the Inchcape Committee you appointed a Superintendent of Education of schools under the centrally administered areas?—I may explain the point in some detail. In the first place I would not altogether accept the competence to advise in regard to educational matters of the Inchcape Committee whose primary function was to advise regarding the expenditure of the Government of India. And the administrative modification to which Dr. Gour refers was made, not merely to justify the retention of the Educational Commissioner with the Government of India, but to economise on the post of Superintendent of Education in Ajmer-Merwara and Delhi, which was at the time a separate post and which was abolished as a measure of economy.

180. *Sir Zulfiqar Ali Khan*: Do you not think that in the event of autonomy being given to provinces the retention of this office would be an anomaly?—So far as education is concerned the provinces now have practical autonomy.

181. But you said that universities in different provinces may be handed over to the provincial Educational department?—I should very much be surprised to find either Aligarh, or Benares or Delhi universities agreeing to be made a provincial subject.

182. *Sir Hari Singh Gour*: Was not one of the recommendations given by the Educational Commissioner that university legislation was a central subject and he had to advise on the subject of

university legislation?—Some legislation under the Devolution Rules is one of the central subjects; certainly.

183. But that reason has now been eliminated by reason of the fact that university legislation has become a provincial subject?—Not altogether, sir. I will just refer my friend to item 5 in Part II of the Devolution Rules at page 203.

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187. *Sir Hari Singh Gour*: \* \* \* \* \* You remember, after the Inchcape Committee's report, saying that you could not accept it because the control, the regulation of the constitution and functions of the university was a central subject, and therefore you retained the Educational Commissioner?—Of course the change to which you refer took place as a result of the recommendations made by the Muddiman Committee which was subsequent to the recommendations of the Inchcape Committee, and my point still remains to this extent, that a number of subjects under Education are excluded from the category of provincial subjects, those being the Benares Hindu university, the Aligarh Muslim university and the Chief's colleges. The definition of the jurisdiction of any university outside the provinces in which it is situated is also subject to legislation by the Central Legislature.

188. You have given him the rank of a deputy secretary?—No. For the purpose of departmental noting his functions are those of a deputy secretary, because he was given a number of secretariat subjects, such as Archaeology, etc.

189. *Sir Zulfiqar Ali Khan*: You give grants-in-aid to these universities?—To the Central universities, yes.

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193. *Sardar Shivdev Singh Uberoi*: Would you tell the Conference how far the principle of compulsory education is applied in India as a whole? Have you got any information about that?—We have produced a memorandum on that subject trying to review in the light of our knowledge how far compulsion has been introduced in the different provinces. I could not tell you off-hand what the extent of compulsion actually is to-day in India.

194. But can you tell us if it is on a satisfactory basis, or is it only in very small localities that it has been introduced, in the Bombay Presidency or in the Punjab?—I should say that on the whole the progress made so far with the introduction of the principle of compulsory education in India was limited.

195. Do you know that one of the drawbacks or difficulties in the way of mass education and compulsory education is the paucity of funds with the local and district boards and that the members hesitate to levy any fresh taxation to meet the growing expenses on education?—I have heard and read statements to that effect.

196. Having that in view, is it not fair that the Government of India should contribute towards the expenses of mass education in the whole country?—The Government of India cannot do so under the Constitution as it is to-day. The Government of India are precluded from expending central revenues on a provincial subject.

197. *Sardar Shivdev Singh Uberoi*: Just one question about the Indian Medical Service. Would you please enlighten the Conference about the recruitment in that service?—I am not myself responsible for recruitment to the Indian Medical Service. The Army department are concerned with it. I can inform the Conference that I think since 1915 such recruitment as has been made has been made by means of selection, as against open competitive examination which used to be the practice or procedure for selection before 1915.

198. And who is the authority for making the selection?—The Secretary of State of course makes the appointments. I do not quite know how he selects people in England, but here in India we have a selection Board consisting of the Director General



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of Indian Medical Service, the Director of Medical Services, two ex-Inspectors General of Civil Hospitals and, I believe, one other medical officer.

199. Are the terms, the emoluments and allowances the same for the Indians taken in that service as for the foreigners taken in that service, or is there difference between the allowances of Indians and of foreigners in the service?—I should say that those who have got permanent commissions in the Indian

Medical Service are treated in regard to emoluments on exactly the same footing irrespective of race. I would not be quite sure in regard to one matter; that is overseas pay. As regards passages I know very definitely that the Indian members of the Indian Medical service do not get the same facilities as European members.

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**DELHI.****Dated, 27th November, 1928.****PRESENT :**

ALL THE MEMBERS OF THE COMMISSION (MR. HARTSHORN FROM 12 NOON ONWARDS ONLY) AND OF THE CENTRAL COMMITTEE (EXCEPT SARDAR SHIVDEV SINGH AND DR. SUHRAWARDY).

**Mr. A. C. McWATTERS, C.I.E., I.C.S., Secretary to the Government of India in the Department of Industries and Labour.**

1. *The Chairman*: Mr. A. C. McWatters, are you Secretary in the department of Industries and Labour?—Yes.

2. That is, is not it, the department which is in charge of one of the Members of the Governor-General's Executive Council, the Member in charge of Industries and Labour?—Yes.

3. At present Sir Bhupendra Nath Mitra?—Yes.

4. I should like to begin, with the help of what we call the red book, in getting quite clear what is the relation of the Central Government to the topics which fall under the general head of Industries and Labour. Let us look at the Devolution Rules for a moment. In the red book\* at page 206 in the list of provincial subjects one sees No. 26 is "Industrial matters included under the following heads, namely—(a) factories; (b) settlement of labour disputes; (c) electricity; (d) boilers; (e) gas; (f) smoke nuisances; and (g) welfare of labour, including provident funds, industrial insurance (general, health and accident), and housing," and then some words follow which I will read in a moment. Those matters, therefore, come within the list of provincial subjects?—Yes.

5. Then does it follow from that, that broadly speaking, your department is concerned with subjects which are for the most part provincial?—No, that follows only so far as the subjects which come under the head of Industries are concerned. If I may say so, the name of the department is perhaps a little misleading, because it deals with a wide range of subjects which are outside the head of Industries. So far as the particular head of Industries is concerned, the result of the Reforms has been to transfer to the charge of local Governments practically the whole of the subjects which come under that head, with a definite exception which is made in the other part of the Devolution Rules.

\* \* \* \* \*

9. The effect of section 80A, sub-section (3) sub-head (f), as applied to the subject of industrial matters, is therefore this: industrial matters is a provincial subject, but in so far as regards five of the heads, including factories, it is a provincial subject which has been declared by rules to be subject to legislation by the Indian legislature; and the constitutional effect of that, as I follow it, is that though, of course, the Central Legislature can legislate (for no one suggests its power is limited), the local legislature may not legislate on those particular topics without the previous sanction of the Governor-General. Is not that correct?—That is correct.

\* Government of India Act.

10. I think you were going to tell us that apart from these industrial matters your department really covers another field which perhaps might not be gathered from its title?—Yes.

11. Will you tell me what that is?—It includes, for instance, the control of Posts and Telegraphs, the control of Irrigation, the purchase of stores for the Central Government, central public works, including New Delhi—.

\* \* \* \* \*

13. We need not have a complete list, but are those the main things?—Those are the main things. There are a good many other smaller ones, and there is Communications.

14. Let us take the things of which you have just given us a useful list. Posts and Telegraphs, I apprehend, is Central in every sense—completely and absolutely Central?—Yes.

15. Irrigation, on the other hand, is, is not it, in the Governors' provinces a provincial subject, at present reserved?—Yes.

16. Do I understand that the department of which you are speaking so far as Irrigation is concerned will have a primary responsibility in British India, outside the nine provinces, say in the North-West Frontier Province, under the head of Irrigation, but that in respect to the Governors' provinces it will have the power of supervision and control?—Yes.

17. Purchase of stores for the Central Government and central public works, are of course in every sense central matters?—Yes.

18. To go back to the red book, we must, must we not, read with item 26 on page 206 the provision to be found on page 212? One of the subjects for transfer is Item 16 of Schedule II: "Development of Industries, including industrial research and technical education."—May I intervene to say this? No. 26 on page 206 is really concerned with labour matters; the development of industries is No. 25.

19. The development of industries is No. 25 on page 206, and that is not only provincial but transferred.—Yes, and subject to the caveat on page 201, Item 20.

20. Let us consider development of industries for a moment. You regard it as rather a separate head from the other?—Yes. I regard No. 25 as Industries, and No. 26 as Labour. Industrial matters such as control of factories and welfare of labour might be regarded as Labour rather than as Industries.

21. Very well; tell me if I have it right now. Item 26 on page 206 may fairly be described as your Labour section?—Yes.

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[Continued.]

22. Item 25, which is the development of industries, is your Industries section, and that must be read with the paragraph on page 201?—Yes.

23. I think the Conference had better look at that, because the construction is rather elaborate. On page 201 one sees that among the Central subjects is Item 20, "Development of Industries"?—In certain cases.

24. I am going to read the paragraph; it is Item 20: "Development of industries, in cases where such development by central authority is declared" by order of the Governor-General in Council, made "after consultation with the local Government or local Governments concerned, expedient in the public interest." That is a qualification, and would bring among the Central subjects development of industries only in the cases thus indicated?—Yes.

25. Has that happened? Have there been cases in which the declaration has been made by the Governor-General in Council that it is expedient in the public interest?—Yes, it has been made in the case of the steel industry. It was made there in order to enable the Central Government to legislate for the protection of the iron and steel industry in India, and it was made in connection with the wagon-building industry in order to enable bounties to be given.

26. Railway wagon building?—Yes. Those two are the only cases in which any declaration has been made.

27. I see there is a note at the bottom of page 201 which speaks of a declaration regarding the steel rail and railway wagon industries?—Yes. The rails were made at Tata's, which is the big steelworks here.

28. Is it steel rails or steel and rails?—It is steel rails.

29. There have been two cases in which an order has been made?—Yes.

30. One case dealt with steel rails?—Yes. As a matter of fact, the same Act really dealt with wagons too; it was all done at the same time.

31. The development of the steel rail and wagon industries has been made central?—Yes.

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35. Since the development of the iron and steel and rail and wagon-building industries has been declared to be a matter which it is expedient to have dealt with by the central authority, has there been any attempt by any province to get the leave of the Governor-General to legislate about it?—No, there has been no such attempt.

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*The Witness:* May I mention what I think is an interesting point? You have mentioned trade disputes. In 1924 the Bombay Government asked for permission to legislate independently on the subject of trade disputes, and the Government of India refused sanction on the ground that they were thinking of introducing Central legislation, which has now been put before the Assembly and circulated for opinion.

36. That is a very interesting example. Which is the trade disputes section?—That is section 26 (b).

37. Let us just work that out. If one turns to page 206, section 26 (b) is settlement of labour disputes, and that is therefore a provincial subject?—Yes.

38. You might therefore have supposed that the provincial legislature at Bombay could go ahead and legislate, but 26 (b) is subject to legislation by the Indian legislature, and by section 80A it follows that they could not legislate without the previous sanction of the Governor-General?—Yes, and that sanction was refused.

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39. *The Chairman:* And you tell me that in that instance, when the provincial legislature applied for leave, they were told that leave ought not to be

given because the Central Legislature thought of legislating for India as a whole?—Yes.

*Sir Arthur Froom:* And there was also considerable divergence of opinion in the province itself on the proposed legislation, I think I am correct in saying.

*The Chairman:* Yes. Whatever the grounds were, the position was quite clear, that until you got the previous sanction of the Governor-General the province could not go ahead?

*Sir Arthur Froom:* Quite.

*The Witness:* There have been cases under other heads where sanction has been given to provinces to legislate.

40. *The Chairman:* Just give me a good example, will you?—Construction of factories was one case. The Government of India considered whether they would have general legislation to determine principles of factory construction. They consulted local Government, and on examining the cases they thought the differences of climatic conditions and differences in types of labour, and so on, were such that they thought central legislation would not be suitable, so they said they would not legislate centrally, but if the provinces liked to legislate provincially they could; and the Burma Government has proposed to do so.

41. That would be a case where the Burma Government would apply to the Governor-General for the permission, and where they in fact got it?—Yes.

42. That was because, I suppose, local conditions would vary, and therefore it would be difficult for the Central Legislature to lay down a code which was equally appropriate for every part of this vast continent?—Yes. I may say the Bombay Government asked the Central Government to reconsider their decision. They said, "We want an Act." One of their reasons was "We find difficulty in getting it through the local council, and we would sooner have legislation through the Central Legislature"; but that was not accepted.

*Major Atlee:* That is dealt with on page 1502\* of this book.

*The Chairman:* Yes, that is the passage, on page 1502 and onwards of "The State and Industry." \*

43. Now I should like to ask you one or two matters of fact. How do matters stand at present as regards factory legislation? I have in mind what I read on page 1483\* of this book. What is the present Factory Act? What is the year of it?—1922 was the last big revision of the Factory Act. There were one or two minor amending Acts subsequently, but the big Act was passed shortly after the Reformed Constitution came into force. It was practically a complete revision of the factory law, embodying the Hours of Labour Convention of Washington.

44. Yes; I will ask a question about that in a moment. If one turns back in this book to page 1479,\* one sees that factory legislation seems to have been developed rather late. The first Mines Act was passed in 1901. That is at the middle of page 1479\*?—Yes.

45. It was an attempt to regulate hours, and it was not until 1924 that any restriction was placed on the age at which children might be employed, or on the hours for which they might be worked?—That is correct.

46. Am I to understand that down to that time a child could be worked underground?—In mines, yes.

47. For any number of hours?—There was no legislation, I think, until then.

48. And a woman?—Yes. Women work underground now, but there are proposals which are now before the country for abolishing women working underground within a period of years—completely in the case of some mines, and in a period of ten years in the case of the coal mines.

49. Then this very interesting book goes on to say,

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[Continued.]

at page 1479\* : "The introduction of electric light in factories combined with an increasing shortage of labour led to a steady increase in working hours until by 1905 . . . the majority of the operatives in the Bombay cotton mills were worked for 14½ hours a day" ?—Yes.

50. " . . . and in most of the textile mills throughout the country hours ranged between 13½ and 15 hours." Am I to understand that hours of that sort were permitted by law even in the case of children or women ?—There was a limitation in the case of children and women in factories dating back much earlier.

51. Then that refers, does it, to male adults ?—Yes. There was a limitation of 9 years old from 1891, and there was a limitation of the hours for women also from a fairly early period. Women's hours were limited to 11 in 1892.

52. Just going on with page 1479\*, it was not until 1911, after investigations by two Commissions, that the new Factories Act was passed into law, and you tell me that the last revision (and no doubt it would be an improvement) was 1922 ?—Yes.

53. Do you mind telling me now what is the limit of hours for adult male workers working in factories ?—Eleven hours with one hour's rest is the maximum.

54. Do you mean one hour's rest out of the 11 ?—Yes.

55. Then there is by Convention, I know, some limitation now in the working week. Has that been arranged by negotiation between bodies of employers and employed, or is it the result of any statutory provision ?—There is a statutory restriction of 60 hours a week in the Factories Act. That was after the Washington Convention, to which India was a party. The hours fixed generally in the Washington Convention were relaxed in the case of some Eastern countries, of which India was one.

56. I think I might ask you a question or two about that. You deal with the Washington Convention, beginning on page 1483\*, and on the next page, 1484\*, the book says this : "In February, 1921, a series of Government resolutions was introduced in the Legislative Assembly urging the acceptance of most of the important proposals made at Washington. These included the imposition of a weekly limit of 60 hours on the employment of industrial labour, the prohibition of night work by women and young persons in factories, and the raising of the minimum age for industrial employment to 12." I see that before that the minimum age had been 9 ?—Yes.

Lord Burnham : That is under the backward countries clause ?

57. The Chairman : Yes, that is it. I think I would like to read on, though of course we have all had it before us, and we know it : "The debates on the resolutions relating to these and the other proposals were significant. Nearly all the proposals were carried without a dissentient voice and the only question which aroused a controversy was the proposal to raise the minimum age of employment to 12. Here all were agreed that an advance was necessary, but a substantial section of the Assembly desired to fix the age at 11 and was defeated by a small majority." Does that mean that 12 was carried ?—12 was carried.

58. And is 12 the law now ?—Yes.

59. As regards following the lead of the Washington Convention, I should infer that the record in India is good ?—Yes, certainly ; everything that was agreed to there was put into legislation immediately after these resolutions were carried in the House. It was made the basis of the new Factories Act which was passed in 1922.

60. And the method was, was it, that first resolutions were carried ?—Yes.

61. And then, when it was found that the sense of the House was in favour of the resolutions, a Bill was introduced ?—Yes. I think that is obligatory. Any Convention which we accept, or even if we do

not accept it, in the International Labour Organisation at Geneva has to be put in the form of a resolution before the legislature of the country.

\* \* \* \* \*

62. \* \* \* There is just one other point. Factory Acts, and statutes limiting hours of labour and restricting the employment of mere children, are all very good, but the only thing that really matters is how they are enforced. Now, what do you say about that ?—The method of administration is provincial ; that is to say, the inspectors of factories are appointed and work under the provincial administrations. They report to the Government of India ; they send in all the results of their yearly working, but they are actually provincially administered in the case of factories—not in the case of mines. Mines have a Central Government staff of inspectors.

63. Let us keep to factories. It is an interesting arrangement. It is an arrangement by which the central authority legislates, and then the provincial authorities administer the legislation ?—Yes.

64. It is obviously a thing one wants to follow. It is a matter which has a very direct bearing on the Constitution of British India. I gather that all your department, the central department, has to do with the administration is this, that you receive annual reports from the provinces as to how the inspection has got on, and what the results are, and so on ?—Yes, and we co-ordinate the reports and publish them for the whole of India.

65. Still, that is producing a book. I am much more interested in seeing whether the law is effectively enforced and observed. You have no central system of inspectors ?—No central inspectors, no.

66. I do not know whether you are able to tell me ; do you think that the law is observed ?—I think it is observed. There is a large staff of factory inspectors in the provinces, which has been greatly increased in the last year or two, but it is a matter primarily for them to administer the law.

67. Do you regard that as a satisfactory arrangement, that one authority should make the rules and then another authority should be charged with the duty of seeing whether the rules are carried out ?—I think in the conditions of India it probably is perhaps the best way. It makes the local Governments directly interested in the conditions of working in the factories, with which they should be in closer touch than we can be at the centre in Delhi.

68. Has the local administrative authority conferred upon it, does it enjoy, any powers in the way of relaxation ?—Certain relaxations are allowed, but in most cases I think they are subject to the sanction of the Governor-General in Council. In case of emergency the only powers the local Governments have on their own initiative are given by section 56 : "In case of any public emergency, the local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit." In the case of most other exemptions they have to get the consent of the Governor-General in Council.

69. These reports which you get, do they include an account of how many cases there have been in the province where there has been a prosecution for breach of the factory law, and an account of the conviction and punishment ?—Yes ; they get full accounts of that, and of accidents.

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72. Lord Burnham : I have one or two questions to ask on the relations of India with the International Labour Organisation. Will you permit me to say that India has a very good name at Geneva for the way in which it has tried to carry out recommendations and Conventions ? I would like to ask you, first of all, whether India will be content to remain in the category of the industrially backward countries, where India is placed under Part XIII of the Treaty of Versailles ?—I think certainly the answer is in the negative. No country ought to be content to remain there.

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[Continued.]

73. Of course, that arose at once in regard to what is called the Eight Hours Convention, did it not?—Yes. It was not so much perhaps because it was industrially backward, but because the conditions were perhaps more difficult, climatically and otherwise more difficult.

74. I am using the phrase, I think, that is authoritative?—Yes.

75. It is now the case that India has a permanent place on the Governing Body of the International Labour Organisation, is it not?—That is so, yes.

76. I think the High Commissioner is the representative, is he not, at the moment?—Sir Atul Chatterjee, yes.

77. Would it then be likely now that India will itself propose an advance on the lower standards which are now accorded to her?—As regards hours of labour?

78. As regards hours of labour particularly, of course; but general Conventions can be adapted to the conditions of what are called backward countries?—There has been no proposal officially for introducing legislation for shorter hours. It would be quite within the powers of the Government to introduce legislation themselves for shorter hours if they liked. We have introduced the hours that we agreed to at Washington, but that would not prevent the Government from shortening those hours by legislation if they could carry it with the agreement of local Governments and of the Assembly.

79. But to put India on an equality with Western nations in the eyes of the International Labour Organisation it would require, of course, an agreed amendment by all the Powers, would it not?—Yes. India is excepted. If the exception were taken away, we should have to fall into line with the general hours, or else not ratify.

80. Is it the case that the International Labour Office is now to be represented here for all India by a local office?—A local office, a correspondence office, was started in Delhi a few weeks ago, which is in direct touch with the Labour Organisation.

81. There have always been local bureaux in the provinces, have not there?—Not labour bureaux in every province. Bombay has a labour bureau of its own. They have reduced it recently; it used to be bigger than it is now. Madras has a Labour Commissioner, and Bengal has an organisation, but not every province. In most provinces labour matters are dealt with in the ordinary secretariat.

82. They will furnish information, I suppose, to the International Labour Office through the Government of India?—Yes.

83. Is it the case (I will not go over all these things, of course) that in regard to the administration of the Acts rendered necessary by the Labour Conventions the Government of India give any guarantee that the law is properly carried out? Does it inspect the inspectors?—We certainly have responsibility for seeing that everything is carried out to comply with Conventions we have signed. If it came to our notice that any province was not carrying out one of the principles to which we had agreed and which we had put in legislation we should certainly interfere.

84. You are aware, are not you, that any country which, having ratified a Convention of the International Labour Conference, does not see to it that it is properly carried out, can be brought before the Permanent Court of International Justice?—Yes.

85. That has never been done to India, has it?—No.

86. No, I know it has not.—We have always taken great care to see that everything is carried out; first that legislation is passed and then that it is observed.

87. You are satisfied, then, that these laws are observed to your own satisfaction?—Yes.

88. You do not suggest any procedure other than you have now?—No, not in this case.

89. As you are aware, in almost all cases in Federal States (I speak subject to correction) industrial laws

have to be passed and administered by the State or provincial authority?—Yes.

90. India is an exceptional case and is working satisfactorily under another system?—In practice we consult local Governments in detail before we brief our representatives at Geneva, and we know what their views are before we subscribe to any Convention. We get them to agree or, if they did not, we should probably legislate over their heads and see the law was observed. In practically every case, however, we get agreement with local Governments as to the policy which the Government of India should put forward as their policy.

91. You are aware that originally the Governing Body of the International Labour Office had as permanent members only the six nations of principal industrial importance?—Yes.

92. And therefore the admission of India as a permanent member places her seventh in the order of industrial importance in the whole world?—Yes.

93. *Colonel Lane-Fox*: I suppose it is true to say that since the Reforms labour questions have been more gone into and labour has been more cared for than before?—I think that is undoubtedly the case. I think this book is evidence of the greatly increased interest in labour questions since the Reforms.

*The Chairman*: It is a very interesting book from that point of view.

94. *Colonel Lane-Fox*: It has been suggested to us on several occasions that Irrigation, instead of being a reserved subject, might be transferred. What would be the effect on the control that the Government of India has if that was made a transferred subject?—That is a very difficult question. Our control is principally exercised in two ways. In the first place, the Secretary of State and the Government of India acting for the Secretary of State has to give sanction to any project which costs more than Rs. 50 lakhs. A provincial Government, if it desires to carry out an irrigation project costing more than that, has to send the project in detail up to the Government of India, and the Government of India has to send it on to the Secretary of State for his sanction. The procedure which has been adopted recently is that a central Board of Irrigation has been formed, consisting of our consulting engineer and the chief engineers of all the provinces. A scheme of that kind is referred to a committee of that Board consisting of our consulting engineer and two chief engineers from other provinces, and so there is a second opinion which goes on to the Secretary of State, either recommending acceptance or not of the scheme. I am dealing now purely with this question of a second opinion on their schemes. It is very important, I think.

95. How did you say that Board was formed?—It consists of the consulting engineer to the Government of India and the chief engineers of all the provinces. They form the Board. The Board does not meet as a Board, but questions are referred to a committee of the Board, for which the Government of India lend their consulting engineer and two of the provinces are asked to lend the services of their chief engineers, to examine any particular scheme. The Government of India had correspondence with the Secretary of State in 1926 on this question, and they proposed that this 50 lakhs limit should be abolished and that in future it should not be necessary for local Governments to get further sanction for any scheme, irrespective of its amount. What we would like to see is that this central Board of Irrigation should be available as a second opinion in every case for local Governments, and perhaps for it to be made obligatory that they should take a second opinion in that way, but we think that the further reference to the Secretary of State might be dispensed with.

Has that been turned down?—The Secretary of State did not turn it down, but he said he preferred not to pass orders until this Commission had reported.

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[Continued.]

*Witness*: It is important, because if that further reference for sanction for schemes over 50 lakhs were removed it would take away one difficulty in transferring the subject of Irrigation; that is to say, there would be no further control exercised over schemes at all, except that in some way or other one would like to see the taking of a second opinion from this competent Board of experts in India made obligatory. Whether that could be done within the present definition of a transferred subject is arguable. That is one side of the question, the question of technical control of the schemes. The other side, which is equally or more important, is that in the Irrigation service the recruitment of European engineers up to 40 per cent. of the whole is still continued. Forty per cent. are recruited from Europe, 40 per cent. recruited direct in India and 20 per cent. are promoted subordinates.

100. *Colonel Lane-Fox*: Who carries out the recruitment?—The Secretary of State recruits in England 40 per cent. of the engineers required for the Irrigation departments of the provinces.

101. Is he sending out suitable men?—No. We have had great difficulty in the last year. In the last year we had nine vacancies to fill, and the Secretary of State has quite recently reported to us that he has been able to obtain only three suitable men for the service of Engineers.\*

102. What do you put that down to? There is a great shortage of work for engineers in the old country?—On receipt of that report, the Government of India deputed two of their leading engineers who were on leave in England to go round all the universities at Home and to inquire into the cause of the reluctance of men to come out, and to suggest any possible remedies. Their report has recently been received. They say it is not a question of pay; there is apparently a definite reluctance on the part of the engineers to come to the East, but also and more particularly they think it is due to the present method of recruitment, which requires men to spend a year attached to some firm of consulting engineers. They think either Government should pay the expenses of that year, or, if possible, the men should come out and be given their year's training here, and that in that case young men might be more willing to come out. But the fact remains that the present system of recruitment has broken down.

103. The year is intended to give them practical experience?—In general civil engineering. The engineer out here has to be very catholic; he has to build his roads and bridges and all his own houses as well as be a technical irrigation engineer.

104. You suggest he might get his practical experience out here?—One suggestion is that we should give it to him ourselves out here, yes.

105. Can you tell me what terms they are enlisted on?—I have not the figures here, but I could let you have them. There is a fixed scale for all the engineering services—railway engineers and the Indian Service of Engineers.

106. *The Chairman*: I do not think the question was directed to the salary, but to the prospects of permanent employment?—It is permanent service. They are recruited for the whole of their career out here, and retire on a pension like the members of any other All-India service. It was in fact suggested by our own consulting engineer before the Lee Commission that it might be better to bring men out on temporary contracts, and that you might be able to get more men if you brought them out on a five-year contract, and that proposal was considered by the Lee Commission, but they did not accept it; they preferred to adopt the present principle of recruitment for the whole of their service, and fixing a definite proportion of European recruits.

107. *Colonel Lane-Fox*: Roads are, I think, a transferred subject—the maintenance of roads?—Yes.

108. Are roads maintained by a central tax? There is a petrol tax now, is not there?—No. There is a tax on petrol now of four annas a gallon. The proposal of the Roads Committee, which reported a week or two ago, is that that should be increased by two annas, and that the proceeds of that extra taxation should be applied under the general control of the Central Legislature and given in varying proportions to the different provinces.

109. What is the existing petrol tax? Is that a local, provincial tax?—No, an All-India tax, an excise.

110. Are the proceeds of that distributed in the same way?—No. They go into the general revenues. If effect is given to this proposal it will mean an alteration in the Devolution Rules. You are going to spend the proceeds of a central tax on a provincial subject, and I think it follows an alteration of the Devolution Rules will be required. Sir Arthur Froom was a member of that Committee. I think an alteration will be needed.

*Sir Arthur Froom*: Yes, presumably.

111. *Colonel Lane-Fox*: Is no portion of the petrol tax at present spent on the maintenance of roads?—No, not directly. It goes to general revenues.

112. There is no grant from the Central Government to the provinces?—No, none.

113. I notice that the development of industries is a transferred subject and the development of mineral resources is a reserved subject?—Yes.

114. What is the reason for that?—With regard to mineral resources, I think the view taken has been that they were a national asset and required to be dealt with on general principles, and that individual provinces could not be allowed to take different lines as regards rates of royalty and methods of development. What actually happens is that a code of rules has been framed by the Secretary of State, and local Governments within those rules are given a fairly free hand. The rules lay down, for instance, that no license shall be given to anyone except a British subject, and also that certain rates of royalty shall not be exceeded, and that more than a certain area shall not be given to any one prospector or licensee; but beyond that the local Governments have a fairly free hand. As a matter of fact, I think several local Governments feel that they have not quite so free a hand as they would like; and I think it is possible some of them may give evidence to that effect.

115. As a matter of fact, mining legislation is a matter for the Central Government?—Yes, the Mines Act is a central Act.

116. And the inspectors also?—They are also central.

117. Surely there are some local inspectors as well?—No, the central inspection is all by our Mines Department.

118. How many inspectors are there?—Ten in India.

119. Do you know what the number of mines is roughly?—I have not the figures, but the largest numbers are in Bengal and the Bihar coalfields. Beyond that they are mainly scattered. In the Central Provinces there is a number of coal mines, but there is not a large number of deep workings anywhere else. In Mysore State there are gold mines.

120. There is some local body which superintends them?—Yes. Under the Mines Act one of the principal regulations is that Mining Boards should be appointed or may be appointed in every province. In fact, more than one mining board may be appointed in one province. Those are bodies to whom the local Government refers any question of difficulty arising in connection with the mines; for instance, if there is a bad accident they would appoint a special board to go into the question. Any rules or regulations that they frame under the Mines Act has to be referred to the mining boards. There is close local control as well.

121. What happens in case of a bad accident? Are the inspectors allocated to certain districts?—

\* The witness subsequently amplified this statement vide Appendix B, p. 183.

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No; they work under the chief inspector, who sends his men wherever they are required. He is located in the mining area at Dhanbad; his head-quarters are there.

122. In case of a bad accident, the mining board would call in all the help of inspectors they could?—In case of a very bad accident they appoint a special board, with a magistrate as chairman and one or two assessors, including an inspector of mines. That is what happened the other day, when a very bad accident occurred in Bengal.

123. *Major Atlee*: Have you any statistics at all showing the number of visits paid to mines in the course of a year by your inspectorate?—Yes. I have not got them here, but I could certainly provide them.

124. Could we be supplied with that?—I think it would be useful to know. Also, could we have a note on the distribution of mines, apart from that mining area of Bengal and Bihar?—I can give you those figures\* quite easily.

125. Something has been said of the division you have between labour legislation and the administration of labour laws, one being central and the other provincial. What strikes one is that that cuts across the financial arrangements in India. As a matter of fact, the Central Government in the main takes the taxation from industry, while the provinces mainly depend on agriculture, and therefore it would seem to be rather unfortunate that let us say Bombay, which has a pretty substantial grouch (I have heard a good deal about it) of not getting its taxes from the profits of industry is expected to provide the money for labour amenities?—Yes. I think the industrial provinces have a certain grievance under the present arrangement.

*Major Atlee*: I am looking at it now from the angle of the willingness of the local Governments to undertake the provisions of amenities and so on and see to the active carrying out of labour laws.

*The Chairman*: Factory inspection?

126. *Major Atlee*: Factory inspection, and so on. As a matter of fact, it would be quite natural—I do not know whether it does happen—for the members to say, "Well, after all, our finances come mainly from land revenue, why should we put up a lot of money to look after these things, when the profits go to the Central Government?"—Yes. I think that industrial provinces certainly have a claim to a share in what you might call the growing sources of industrial revenue. There is no doubt about it, I think.

127. It looks rather as if the administrative and financial arrangements were not marching quite side by side. May I take a specific instance of that? There is the question of statistics. We have heard in some provinces that the provinces resented having to supply statistics to the Central Government, and I gather from this book that your statistics are extremely incomplete?—Yes. Well, we have never had a complaint as regards industrial or labour statistics. We have never found any local Government unwilling to supply them. The Bombay Government endeavoured to obtain a much more complete statistical Bill of their own, but they were unable to get it through the local Council.

128. Does it not hamper you enormously in industrial legislation that you have got no adequate statistics, and is there much hope with the present financial arrangements that you will get local Governments to shoulder the burden and provide really adequate labour statistics? It looks rather as if it were failing, does it not?—I think there is no doubt that a central statistical bureau on labour statistics would be a good thing. I think one could improve them. It would cost money, but I think that would be a fair charge—I am speaking purely personally—on the Central Government.

129. Quite; because after all, they are going to use it for the purpose of legislation, and local Govern-

ments are not legislating on it, and it is the data required both for your international work and for your legislation?—Yes.

130. As regards public opinion generally, do you consider that that is waking up on the subject of the conditions of labour? I note a phrase here in which it is said that some time prior to the reforms the Government were not particularly awake, and public opinion was asleep, and the employers did not wish for any labour legislation. Do you think there is any change in that position?—Public opinion generally? I find it rather hard to answer as to that. As far as public opinion represented by members of the legislature is concerned (and, after all, the members are representative), I think it is true to say, that there is an increased interest in labour questions.

131. Let me take an instance. In 1924 Mr. Joshi introduced his Bill for providing that women employees should not work shortly before and after confinement. That was defeated by 51 to 47. Can you tell me what attitude the Government took on that?—Government opposed that Bill, if I recollect aright; I understand it was opposed, though I do not remember the details.

132. On page 1501\* it is stated that the ground was that the necessity for legislation had not been established, that the principles of the Bill were questionable, and that it might have harmful results for female labour. I wonder on what ground the principles of a Bill stopping women working shortly before and after confinement were questionable?—I do not think the Government opposed in that sense; in fact, there is one Maternity Bill before the Government of Bombay, I think, now.

133. That is a purely local Bill?—Yes.

134. I understand that there is no central legislation contemplated?—Not at the moment, no.

*The Chairman*: Forgive me for interrupting, Major Atlee; I am looking at the page to which you refer, page 1501.\* May it not be that the reference to the principles of the Bill is to what is stated just above, that there were different maternity benefits to be met from a general fund established in each province under the control of the local Government, and built up by contributions from employers?

*Major Atlee*: Well, I thought that that was perhaps more the detail of the Bill than the principle.

*The Chairman*: I cannot say. It does strike me as an interesting feature to say that the employers were to be the source of the fund which was to provide the maternity benefits.

135. *Major Atlee*: With regard to Mr. Chaman Lal's Weekly Payments Bill, am I to understand that that is a pretty widespread custom throughout India, to withhold wages for considerable periods?—I do not think it is very widespread, but certainly in some parts there is evidence that wages are unduly withheld, and that is a subject which the Government of India have quite recently been in correspondence about with local Governments, to see whether central legislation is desirable. That subject is actually under their consideration now.

136. Is it likely to come forward at all? Do you know what stage the consideration has reached, at all?—Privately, I can say that the department with which I am concerned has formulated its own views after consulting local Governments, but there has been no decision of the Government as a whole yet.

137. Do you think the enforcement of labour legislation generally in the provinces is satisfactory?—I have no reason to suppose it is not.

138. You depend, of course, merely on the reports of the local Governments?—We depend on the local Governments, yes.

139. Now, as regards Indian States, is your department in correspondence with Indian States where there are industrial undertakings with regard to labour legislation, and the carrying out of Conventions, and so on?—The question of the Indian

\* Vide Appendix A, p. 183.

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[Continued.]

States is a very difficult one. When we undertake any convention of this kind we have had to explain at Geneva that we could not take the complete responsibility for the whole of India, that we could only take it directly for British India, and that caveat, so far as I know, has been accepted at Geneva without question. We do what we can; we undertake, by bringing matters to their notice, to try and get them to come into line, but we have no power to enforce on them principles of Conventions which we can enforce in British India.

140. You have a considerable extension, have you not, of cotton factories into some of the States adjoining Bombay?—Yes.

141. I wondered whether you knew how far these were carried out there?—I have not details, but I have no reason to suppose that the really organised industries in well-developed and well-managed States such as those you are mentioning are in any way really behind our own.

142. There is only one nominated labour representative in the Central Legislature?—Yes, only one. He is not nominated as such, but a man was nominated who was known to be a man who would represent labour views. He is not definitely called that, I mean, when being nominated.

143. But in view of labour legislation, is not one a rather small number? Is not he rather handicapped by having to be an expert adviser from the labour point of view on all sorts of very diverse things in very diverse provinces, which might come up under general labour laws?—Yes, I agree. I think that the labour representation in the Assembly should be very much larger than it is.

144. I think there are no labour representatives on some of the provincial councils, are there?—I have not got the figures here. I think there are ten altogether.

145. *The Chairman*: Madras has not one, the United Provinces has not one?—But they have depressed classes representatives.

146. But still, I think the answer is that they have not got labour representatives as such?—That is so.

147. *Major Atlee*: When you are dealing with a matter of labour legislation, have you any method of consulting the trades unions?—The consultation is always done through local Governments, and we expect them to consult the bodies principally interested. We do in fact get opinions from the labour unions. We do not send them direct ourselves; the consultation is done through the provincial Governments. Sometimes we draw their attention specially to the fact that we should like the opinions of particular classes. In connection with the Trade Disputes Bill, for instance, the point was raised in the House as to whether unions would be specially consulted, and I was in charge of the Bill, and I gave a promise that that would be specially brought to the notice of provincial Governments that it should be done.

148. Is not it rather a drawback of that division you have in legislation and administration on labour questions that you are only in touch with actual labour conditions in the centre at second-hand, through the provincial Governments?—Yes. Of course, both the Member and the Secretary of the department, and other officers, but mainly the Member and the Secretary, constantly tour and make themselves familiar with the conditions in the other centres. Every year, once or twice a year certainly, Calcutta and Bombay are always visited by the Member in charge, and probably by the Secretary as well.

149. You have no staff, so to speak, in day-to-day touch?—No.

150. *The Chairman*: It is perhaps convenient to get on the note what the facts are about the representation of labour in provincial councils. I think it stands thus. There are two nominated labour representatives in the Bengal council. There are now, I think, three in the Bombay council. There is one in Bihar and Orissa, one in Assam, one in the Punjab, and one in the Central Provinces. I think

that is right?—Yes. The figures are actually given in one of the memoranda that were put in.

151. I was looking at the bottom of page 1481\* of this book.—Yes, but there is a special memorandum on representation.

152. Yes, I know. In Madras, I think you said, there are ten seats for the depressed classes?—Yes.

153. *Mr. Cadogan*: Might I ask a question which concerns that particular point. I notice in a memorandum which was submitted to the Conference recently it was stated that factory labourers in one province at least hardly constitute a separate class, that they merge in and are indistinguishable from the great mass of the agricultural class. Can it be said that, speaking of India generally, there is a considerable section of factory workers and mine workers who can only be classified under such a heading in certain seasons of the year, and that divides its time between factory work and work in mines and agriculture?—Yes. In the case of mines, the workers are practically all agriculturists; they come and go. They are a floating population; they are not definitely miners at all, but they work in the mines and they go back to their homes. In Bombay you get a floating population, too, to some extent, but it is becoming more a permanent population, I think.

154. And that would make representation easier, the more permanent it became, I take it?—Yes; and in Calcutta they come down for fairly long periods from the Eastern United Provinces and Bihar, and they go back in a year or two. That was my experience when I was working in the Eastern United Provinces, that there was a large number of people who would spend a year or two, or six months sometimes, and then find their way back to their own homes and their agricultural work. So there is nothing very much of absolutely permanent settled population in the big centres.

155. *Lord Strathcona*: Could you tell us roughly, or perhaps later on more accurately, what is the proportion of mine workers in British India as compared to the Indian States?—I could get the figures. I have not got them here, but I could easily get them.†

156. Are they fairly evenly balanced?—The only important mining area in Indian States is Mysore, where there are the gold mines. That is a big area.

157. I had an idea that the proportion was pretty well equally balanced?—I think the British Indian population is much greater.

158. You told the Chairman that the hours of work for adult males in mines is now 11 hours, minus one rest hour. What are the hours for women and children?—The figures I gave were for factories.

159. Can you tell us what the figures for women and children are?—I have got the actual Acts here. Do you wish the figures for factories or for mines?

160. Both I should like to have, if the Chairman thinks there is time.—These are the general rules for factories (Indian Factories (Amendment) Act, 1922, section 17): "No person shall be employed in a factory for more than sixty hours in any one week." That is the weekly limit. "No person shall be employed in any factory for more than eleven hours in any one day." Then there are special provisions about the rest hour. Then as regards women (Factories Act, 1911, section 24): "No women shall be employed in any factory for more than eleven hours in any one day." So that is the same as regards women. Then as regards children (Factories Act, 1911, section 23 (c) as amended by the Act of 1922, section 14 (2): "No child shall be employed in any factory for more than six hours in any one day." As regards mines the figures are given in sections 23 and 26 of the Indian Mines Act, 1923.

161. *The Chairman*: You say in the case of men the daily work is 11 hours?—Yes, and then there is the rest period.

\* Vol. V. † *Vide* Appendix A, page 183.

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[Continued.]

162. I am looking at page 1490\* of the book, which says that the Bill there referred to provided for the limitation of daily hours of men to 12?—It was reduced to 11 when the Bill was before the House. That was the proposal, but when the Bill was actually before the House 12 was reduced to 11. That is a case where the legislation was actually improved by one hour on the proposals put up.

163. Yes, I see on page 1490\* that "the Bill went through a Joint Select Committee of both Chambers" which made few changes of importance; the chief alteration was the reduction of the daily limit of "hours for men from 12 to 11."—Yes.

164. *Lord Strathcona*: I should like to ask one question about irrigation, following up something that Colonel Lane-Fox said. With regard to the survey of potential sources of power, irrigation and coal, and all these potentialities, is that chiefly Central or provincial? Is that carried out by the Central Board for Irrigation?—No, at the moment that is provincial. What happened was that just before the Reforms the Government of India had undertaken a hydrographic survey for the whole of India, and I think for two years there was a committee. They covered most of the field, but did not quite complete it. They had a special officer in charge of that kind of work with the Government of India. They have not got one now. Now it is provincial.

165. Entirely provincial?—Entirely provincial, but a good deal of the preliminary work was done; a good many of the likely places were examined by this central committee.

\* \* \* \* \*

172. *Sir Arthur Froom*: Would you give the Conference your impressions as to the attitude of the Central Legislature towards legislative measures brought forward in connection with the welfare of labour? Have there been many Bills passed affecting the welfare of labour since the introduction of Reforms?—There has been a great period of activity since the Reforms. Not only the Factories and Mines Acts were completely revised and made much more liberal towards labour but there were special Acts such as the Trade Unions Act and the Workmen's Compensation Act and one or two other measures affecting labour. In all these cases, I think I can say quite definitely that the Government proposals were accepted and passed without any serious opposition.

173. Could the Conference therefore draw the conclusion that since the Reforms were introduced and under the present system of Government in the centre, a number of beneficial measures in connection with labour have been passed?—I think, certainly.

174. Your department—I think you explained to one of my colleagues opposite—make it a rule to keep in close touch with the public in connection with labour matters?—Yes.

175. You have an advisory committee attached to your department?—We have.

176. Is it correct to say that through the advisory committee you are kept in full touch with public opinion?—Yes, certainly. I might say that we have received the greatest help from our advisory committee.

177. On your advisory committee the nominated member for Labour, I believe, has a seat?—Yes.

178. He makes his voice felt?—He does.

179. In reply, I think, to a question put by Major Attlee you admitted that the provinces might be expected to have real grounds for complaint in that they are called upon to administer legislative measures brought into being by the Central Legislature in connection with industries and to bear the cost of its administration whereas the income is derived chiefly from agriculturists?—Yes.

180. Might the Conference consider that your opinion on this point carries more weight inasmuch as for three years you have been the Finance Secretary?—Yes; I have met the problem in various capacities.

181. Then as regards the powers of the provincial legislatures to introduce legislation in connection with the subjects which are given on page 206\* and to which our Chairman has already referred, I think you told us that no legislation had ever been introduced with possibly one exception. I want to put you this question: Would you consider it desirable that provinces should have different laws for their factories, for electricity, for boilers, for gas, smoke nuisances and so on? Would you consider it profitable or desirable for various provinces to have different laws controlling these subjects?—No. But for instance in the case of minimum wages, I can conceive the possibility of having local legislation; possibly, some form of minimum wage might be found suitable in one province which is not suitable for another and therefore central legislation might be difficult. Another case is about sickness insurance. I think some provinces might like to go ahead of others and introduce some form of legislation, and, as such, central legislation might not be desirable.

182. *The Chairman*: I think the instance that strikes me most is the last word in (g), viz., housing. Is that understood to mean housing in general or industrial housing?—Industrial housing.

183. One could imagine one province might desire to have a scheme which another province may not desire. No province can introduce legislation about industrial housing without the sanction of the Governor-General. It seems to have been regarded as partly central and partly provincial?—This particular proviso, sir, was the subject of great discussion at the time the Devolution Rules were being framed. This particular section was probably discussed more than any other and it took this final form; at various stages it was in different forms.

184. Do you think that including industrial housing among the heads which are described as "subject to legislation by the Indian Legislature" is right?—I think it is very unlikely that the Central Legislature could pass any useful measure of a general kind; it could only be in such a vague form as to leave the whole thing practically to local Governments to fill in the details.

185. *Sir Arthur Froom*: The Central Government will not refuse sanction to legislation for housing?—They will not as a rule refuse, but they will refuse if they were probably thinking of legislating themselves.

186. Still, to have different Acts for boilers, for instance, would be undesirable?—I quite agree.

With regard to the question put to you by Lord Burnham on the position of India being a backward country—

*Lord Burnham*: I did not say that. What I said was that India is put on the category of industrially backward countries. I want to make it plain that I did not mean any reflection.

187. *Sir Arthur Froom*: Still you gave the answer to his question that India at any rate is now waking up very much in the matter of labour legislation. I would not mind saying that in one piece of legislation affecting labour, it is far advanced than even most European countries—I refer to the Indian Merchant Shipping Act which is a boon to Indian merchants. Is not that so?—Yes.

188. There is one more question. How would you consider that the grant of full provincial autonomy would affect the Central Government generally? I think we had a question put to you in connection with Irrigation?—As regards Irrigation I pointed out what appeared to me to be the only two difficulties: One was the technical control of the schemes and the other was the continuance of the All-India service.

189. Is there any other particular subject, so far as your department is concerned, which will be affected?—Very little. Most of our subjects are either purely Central or those which are already transferred, with the sole exception of Irrigation.



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[Continued.]

For instance, there are still members of the All-India Service of Engineers in the buildings and roads branch of the Public Works department, but that branch has been transferred though the Secretary of State has still to safeguard the interests of the remaining members of the service. There is no new recruitment. In all other departments, Archaeological and Geological departments and so on, they are purely Central subjects and we administer directly all the services under them. Very few problems of any practical kind seem to arise, I think, in this field.

190. As regards the satisfactory administration of your department, do you think any changes are desirable?—It is rather a difficult question. I think several changes are desirable. For instance, I myself would like to see a redistribution of subjects. I am a strong believer in having the departments of communications in a single department. I was secretary in Llewellyn-Smith's Committee which has made that recommendation. As secretary of that committee I am naturally prejudiced in favour of it. I think a great deal could be done to improve the department if all communications were in a single department. That is purely my private view.

191. *The Chairman*: You mean, Railways, Posts and Telegraphs and Roads?—Yes. Commerce and Industries must come together; I always feel that that is the proper combination.

192. What you are speaking of now does not depend on the language of the Government of India Act because distribution is entirely a matter for the Governor-General; it can be done without any further action on the part of the Imperial Parliament?—Yes.

193. *Sir Hari Singh Gour*: How can a minister for Communications be appointed? You are speaking of the minister of communications?—I was speaking of the re-distribution of portfolios among the different members of the Governor-General's executive council.

194. *Sir Arthur Froom*: Have you ever considered the position of the Central Government where the members of the Government are responsible to the legislature?—I have considered it.

195. Can you give your views?—I am speaking here as Industries Secretary and I am afraid that if I were to give my views in the matter I would be covering a much wider ground.

196. *Sir Hari Singh Gour*: As regards labour legislation you said that you would like to have a large representation in the Legislative Assembly. Do I understand that you hold the view given at page 208\* of the Government of India memorandum—The present representation of Commerce, Industry, Labour, Education and other interests in the Provincial and Central Legislatures, that "On the other hand the feeling that the educated classes generally are sympathetic to labour has influenced the Assembly to a considerable extent"?—Yes, I think that is so. But in spite of that I think labour ought to have a little more direct say. I do not say that the others have not been sympathetic, but I think the labour interests are so important now that labour should have a more direct say.

197. You think that labour interests have materially suffered by reason of the fact that there has not been that representation which you would have liked?—I will not say that. I do not think that there has been up to date any failure to pass beneficial measures.

198. You have got an advisory committee attached to your department and you said that it is doing most useful work. Does your advisory committee often go to visit labour and industrial centres for the purpose of gaining practical experience as to the condition of labour and the state of industries in the country?—Not as a committee. I think however I am right in saying that practically every member of our advisory committee is a man who has had considerable local knowledge. Mr. Joshi, for instance, is constantly touring labour centres and

other members of the committee are men who have direct personal knowledge of industrial conditions.

199. Did you give any facilities to these members to acquire knowledge? How many meetings do you hold in a year when you get them together?—Their meetings take place as a rule when the members of the Assembly are gathered together for the sessions. We usually meet two or three times in a year.

200. You know that there was a meeting at Dhanbad?—Yes, but that was the only one instance.

201. But it was a useful meeting?—Yes.

202. Do you not think it is advisable to repeat that experiment?—I tried myself last year when I was acting Member to call a meeting at Bombay to discuss some important things, but when I found it was impossible to get members together there I had to drop the idea.

203. You said that you and your Honble. Member make yourselves acquainted with the condition of labour and the development of industries in the country by touring?—Yes.

204. Does the Honble. Member tour extensively?—He does. Bombay and Calcutta are frequently visited and on occasions long tours are made. The Honble. Member has visited Burma and Assam too. It depends where the different problems at the moment happen to be most pressing. I think he is going down to Madras next month.

205. These are occasional tours?—Yes.

206. Is that your sole contact with industrial labour?—Practically.

207. How long do you visit these places?—As a rule, about two or three weeks.

208. In a year?—Twice or three times a year.

209. Do you have any industrial conferences for the purpose of acquiring knowledge and co-ordinating and stimulating industrial development?—Industrial conferences were held on different occasions but there has not been one very recently.

210. Is it not a fact that you have not had one since a number of years?—Yes.

211. Do you not think it is useful to revive these industrial conferences for the purpose of co-ordinating and stimulating industrial development?—I agree that it is a good thing. We have recently for instance endeavoured to obtain some sort of co-ordination with local Governments in the matter of industrial research. Industrial research is a provincial transferred subject while the subject of institutions for research is Central. We think it is important that there should be some co-ordination and we have written to local governments five or six months ago asking them to consider this subject in connection with the Agricultural Commission's report which also deals with agricultural research and chemical research. We have suggested that after they have formulated their views a meeting of the ministers should be held to discuss the question of co-ordinating industrial research in India. That proposal has been definitely made to local governments.

As regards the need for the development of industries I would like to have your opinion on the need of having industrial exhibitions in various parts of the country under your ægis.

212. *Mr. Hartshorn*: Before you go away from the subject of industrial conferences I would like to know the nature of these conferences, whether representatives of employers as well as employees are present?—These were purely Government; the Directors of Industries and Members in charge of the department came up to Simla and met together.

213. Had you any conference of the representatives of the industry itself?—No.

214. *Sir Hari Singh Gour*: I was referring to the industrial conference in the sense Mr. Hartshorn has used it; whether you had representatives of employers as well as employees together in conference?—No.

215. Do you not think it is advisable to have conferences of that nature?—With some definite subject or generally?

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[Continued.]

216. With definite subjects placed before them?—I think that is a point worth considering.

217. Do you not think that you should promote the holding of industrial exhibitions for the purpose of bringing home to the people at large the development of industries that are taking place in the country and the products which are available to the people?—I think industrial exhibitions of that kind would probably be barred by the Devolution Rules as they stand. Provincial exhibitions have taken place and they have been very successful.

218. Have you encouraged the provinces to hold exhibitions?—We have taken no part.

219. Have you established any industrial museum for the purpose of making the people visualise the industries of their own country?—There again, I think we are debarred.

220. You are handicapped by reason of the fact that you are a Central Government and Industries is a provincial subject?—Yes. Although I myself am strongly in favour of the provincialisation of the development of industries. I do think that the present restrictions are somewhat rigid. We are not in a position to spend money on any definite industrial project without bringing in this apparatus of declaring it a Central subject. Cases have arisen within my recollection where it was possible we might have given contribution to provinces for some specific purpose, but we are actually debarred, as the rule stands, from doing so.

221. To what extent has your Stores department been developed? Has it been able to take possession of the railway stores—I mean to purchase railway stores through its agency?—The Stores department is not in a position to order any department to use its agency, but it has, as a matter of fact, been increasing its influence especially in the Railway and Army departments considerably. It has been left to make its way and to convince the other departments that it is worth while to purchase through it; it is doing this successfully but gradually.

222. Its progress has not been as rapid as the protagonists of the Stores department would like to see it? I do not think it is now self-supporting?—No.

223. To what extent are you now responsible for the purchase of railway stores?—It is a matter for the railways themselves. As I said, they have agreed to purchase through the Stores department large classes of stores, such as oils, paints and various other things.

224. It is a very small percentage compared to the total requirements of railways?—Yes, we still do not purchase the majority of railway stores.

225. What influence do you bring to bear upon the Railway Board to utilise your agency to purchase these things through the Stores department?—The only influence is to bring to their notice the advantage of using the Stores department. They are gradually getting to realise it.

226. *Sir Zulfiqar Ali Khan*: Would you tell the Conference whether there has been any rapid progress of industries in India?—The evidence is in this book. I think that speaking generally there has been a considerable development. The big industries of course were developed before the Reforms, I mean the big things like jute and cotton and even iron and steel. They were well developed before, but in small things, for instance in cottage industries and so on I think this book gives evidence that there has been considerable development under the stimulus of provincial departments.

227. In what direction?—Mostly in cottage industries. I think the most successful is weaving, the handloom weaving.

228. Is it due to Mr. Gandhi's movement?—That helped.

229. Can you tell me whether most of the raw material produced in India goes to foreign countries instead of being absorbed here in the industries?—That is a question I should not like to answer without notice. There is a very large export of raw materials

from India which are the basis of manufactures elsewhere, undoubtedly. But a large proportion of raw materials is used in India. The jute mills use a considerable proportion of the jute that is grown in India, and the cotton mills use a very large proportion of the cotton grown in India, and such sugar factories as there are use the sugar cane grown in India. But there is an export of raw materials, for instance oil seeds and so on are worked up abroad, in France, Belgium and many other countries, and many other classes of raw materials are also exported. Part of the jute and a portion of the cotton are exported. This is a commercial question on which I could not give a complete answer without notice.

230. Can you tell me whether there are any means by which Government could develop the industries in India, by which they could encourage the development of industries in India?—The Central Government, you mean?

231. Yes.—One way I can imagine is the development and co-ordination of research. I think a good deal can be done that way. We do, through the Geological Survey for instance, help a great deal in bringing new areas, new minerals and so on to notice, but on the whole I think that from the point of view of research we have not succeeded yet in doing very much. That I think is probably the most hopeful line. The provinces have adopted other methods, such as State Aid to Industries Acts, and so on, and many of them have spent money on these lines with the result which you can read here (in the publication entitled "The State and Industry," 1928).\* I do not think they have always been very successful so far.

232. Do you know if educated Indians get employment in these industrial centres?—I think that is a point which I could not answer easily without examination, but I have reason to believe that they can get employment if they are qualified. For instance in the iron and steel industry I think Tatas have an extensive system of training, and they have no difficulty in absorbing every man so trained.

233. So if there is any further development of industry it may help the solution of unemployment of educated Indians?—It would help, certainly.

234. *Sir Hari Singh Gour*: Just one question I forgot to ask, I think, Mr. McWatters, that it is in Mr. Atkinson's report on railways that a suggestion is made for the creation of a Ministry for Communications?—It has been proposed on three occasions at least.

235. *The Chairman*: "Ministry of Communications" may possibly be understood to mean a ministry with a political chief who is responsible to a majority of the legislature. Is that what is meant, or simply the establishment of a department of unification?—Do you mean the latter word should have been used?

236. The word used in the question is "Ministry."—(To *Sir Hari Singh Gour*). Do you mean under a minister?—Whose report was it?

237. *Sir Hari Singh Gour*: Atkinson's report.—I am not at all sure. I do not think he was thinking of the constitutional question.

*The Chairman*: I do not think he was. What was probably meant by the question was whether he proposed that there should be a department of Communications.

*Sir Hari Singh Gour*: We will call it a ministry in that sense, not being responsible to the legislature, but, say a Member for Communications.

238. *The Chairman*: I am not suggesting one or the other, but I think it is more in the nature of a department of administration.—It is so.

239. *Sir Hari Singh Gour*: You said that on three occasions a Ministry for Communications was recommended. What action has the Government taken upon these recommendations?—None.

240. And why not?—That is not for me to say.

241. *Lord Burnham*: Following up your answer to

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[Continued.]

Sir Hari Singh Gour, I should like very much to ask you something about your proposals in regard to a new department covering Communications, especially in the light of the report of the Roads Committee, which I have only read in the press, presented some two months ago.—Not two months; it is less.

242. The question I would like to ask you is, in "Communications" you do not include Railways which belong to the Commerce department?—I should certainly include them.

243. Then it would be a full department of all forms of communications?—Yes, including Posts and Telegraphs.

244. Your opinion is that this is not a political matter but a matter of administration; could that be done within the present limit of members of the Viceroy's council?—I think so. I think it is purely a question of redistribution. The Commerce department which now is in charge of Railways would lose Railways and take Industry and some of the other subjects which are very closely connected with Commerce, Geological Survey and certain other things. They would go in to the Commerce department.

245. Without going into details, I believe there is at present an advisory committee consisting I think mainly of members of the Assembly on railway matters?—Yes.

246. Sir Hari Singh Gour: Members of the Railway Advisory Council are members of both Houses.—In fact all these committees are.

247. Lord Burnham: I imagined you to say both Houses of the legislature. I notice the Roads Committee advise, so I understand, the formation of another committee, another advisory committee to deal with roads?—Yes.

248. This Roads Committee which has just reported rejected the idea of a Roads Board for all India?—Yes.

249. In place of that they would have an annual conference I think of all road authorities?—Yes.

250. May I ask what the functions of the advisory committee would be in regard to the department that you wish to set up?—This report of course has not been considered by Government yet. I understand the advisory committee of the Assembly which is proposed would advise on the general principles on which this extra taxation which after all is going to be levied would be utilised. The Assembly, I think, alone is mentioned because they are the body who are the custodians of the funds. They would lay down the general principles under which the Government of India and the department of Communications would administer the proceeds of the extra taxation.

251. You do not contemplate their interfering in the details of administration?—No.

252. Is there any danger of that knowing what politicians are all the world over?—I do not like to say, because this report has not been considered even.

253. May I ask this? Do you think it would be better to have an advisory committee of experts who are divorced from political life?—The committee of the legislature as I understand it is to deal with the apportionment of money, the principles of the apportionment of money which they vote. That is the reason I imagine why a committee of the legislature is suggested because if they are going to vote the money they ought to have some say in its distribution.

254. May I suggest that it seems now-a-days the general tendency in these matters which are primarily matters of national business is to have as little political influence as possible in the administration?—Yes, in the administration. I quite agree. This is as regards the general principle, which I presume the committee recommend should be debated at that stage. There is one member of the Roads Committee here, in this room, and he can probably explain what they had in their mind, but I understood that to be the idea, that the actual details of administration they would not interfere with.

255. From the point of view of administration you

would be unwilling to see any interference in matters of detail?—I have not formed any view upon it yet. The report has not been before the Government yet. It was only published a few days ago. We have now referred it to local Governments and asked them for their opinion as to the general principle that this extra taxation ought to be divided among the different provinces in the proportions they suggest. On that point we have already consulted local Governments, and when their reports are received the Governor-General in Council will pass orders on the whole of this report. So, at the moment I have only formed just a personal view from reading it. It may have to be modified later when one sees what the local Governments have to say.

256. Mr. Harishorn: I would like to know whether the Government takes any action at all in the matter of wages in connection with the industrial workers?—There is no minimum wage in India at all at the moment. As a matter of fact as a result of discussions in Geneva, we have definitely proposed to consider the question of minimum wages.

257. Has the matter been much discussed in the Assembly?—Not much so far.

258. Is there any substantial demand on the part of organised labour that legislation of that character should be undertaken?—I do not think there has been really any serious ventilation of the subject until quite recently, but we have undertaken to examine it and see whether some system of minimum wages may be possible.

259. Sir Arthur Froom: I think it may be interesting to the Conference to know—it is stated in the report and I am not giving away any confidential discussions of the Roads Committee—that the Roads Committee arrived at the conclusion that all provinces would resent very greatly the administration of roads being taken away from them?—Yes.

260. That was the conclusion arrived at. The provinces recognise that there is great room for improvement and development of roads in the interests of the agriculturists. At the same time the provinces were very reluctant to give up their powers of administration of roads?—Yes.

261. The Chairman: I might perhaps just ask one or two questions for my own information. The latest Factory Act, I understand, deals with all factories employing not less than 20 persons and using mechanical power?—That is the definition.

262. I see at the bottom of page 1491\* ("The State and Industry," 1928) that by 1927 the number of such factories was 7,515?—Yes.

263. There was provision in the Act that local Governments were to be empowered to bring within the scope of the Act by notification factories employing not less than 10 persons, whether they employed mechanical power or not?—Yes.

264. Do you know whether that power of the local Governments has been used at all?—I am not sure. I will look it up. I could find it out quite easily.†

265. In the provinces is the factory administration a transferred department?—No, it is reserved.

266. You do not know whether there has been any indication in the provinces that they wish the Factory Act should be applied to the smaller workshops?—No, I have not got the information but I can obtain it in the course of the day.†

267. Yes. There is another thing I would like to know. Would your annual report show how many factory inspectors there are?—Yes, I have got the figures here. 41 inspectors I think.

268. 41 factory inspectors?—Yes.

269. 41 inspectors for 7,515 factories spread over British India?—Of course the majority of the factories are in big centres like Calcutta, Bombay and Cawnpore.

270. Is the number of factory inspectors and what I may call the intensity of the inspection a matter which is within the control of the provincial Government?—Yes.

\* Vol. V. † Vide Appendix A, page 183.

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[Continued.]

271. Not a matter with you at the centre?—This is a matter under our general powers of superintendence. The actual inspections done are recorded, the number of factories inspected, the number of factories not inspected at all, etc. These details are given in this report which I will give the Commission.

272. Do you happen to know how many operatives there are in these factories, the total number?—The figures will be given in that report again. I think it is about a million and a half.

273. I notice on page 1491\* ("The State and Industry") that one local Government for a time deliberately adopted a plan of avoiding prosecutions in order to give owners time to make up deficiencies revealed by inspections?—Yes, that is recorded.

274. Which local Government is that?—I am not sure.† Would you like the information?

275. If you could find it out. Again on page 1491 the local Government in question says that "the absence of friction is one of the most important objects to be attained in the administration of the Act, and the Governor in Council hopes that it will be possible to continue the present policy," and then I see that the author of this admirable book, "The State and Industry" says that "these hopes were not fulfilled and there was a prompt return in this case to more orthodox methods of administration. On the other hand in the more important industrial provinces the administration of the Act has received a large amount of attention and although the staff has not everywhere been adequate, the standards of administration generally have been more than maintained. The staff employed wholly or mainly on the inspection of factories has been practically doubled in strength between 1921 and 1928." Can you give me the figure just now? Is the figure the one you have already mentioned?—That was the figure which I obtained less than a year ago for Mr. Hartshorn.

276. In 1927-28?—Yes.

277. There are just two or three things which you have been good enough to promise us. I think you said you would be able to let us have copies of the Report on Provincial Administration of the Central Factory Law. The second is the communications that have passed between the Secretary of State and the Government on the modification of the Irrigation scheme. Then you have promised to supply us, in relation to a question put by Lord Strathcona, comparative figures, if possible, of the mining population in British India as compared with that in the States?—Yes.

278. I might perhaps just enquire this point. You made a reference in answer to a question just now to the suggestion that has been made in some quarters that you might recruit for some of the All-India services on short term contracts. I might perhaps remind the Conference that in the report of the Lee Commission there is a very interesting paragraph on short term contracts. I will just try to summarise. It is stated there, "It has been suggested by some university authorities, and also by some witnesses who gave evidence in India, that European recruits for all the All-India services should in future be engaged on short-term renewable contracts. \* \* \* If individuals were needed to carry through a specific project of engineering, or to engage on a particular and limited field of scientific research, or to occupy for a term of years a particular professorial chair, the system of short-term contract might be adopted." This is what the Lee Commission suggested and even then they say that there are drawbacks and they speak of these drawbacks as fatal to the suggestion as applied to the Services as a whole. "These drawbacks are as follows: a new European recruit in any Indian service does not become efficient until he has accustomed himself to the special conditions of India,

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† The witness subsequently wrote in to say that the local Government referred to is the Punjab Government, vide Appendix A, page 183.

"learned the ways of its people, and mastered in some degree the local language. It may be said in fact that his efficiency increases in proportion to his length of service. From the point of view of the Governments concerned, therefore, a recruit engaged on a short-term contract is a highly uneconomical proposition, for, while Government has paid for his period of apprenticeship, it may lose him just at the moment when he has acquired some measure of real efficiency. The proposition is similarly disadvantageous to the recruit. After spending some years in acquiring the special qualifications for efficient service in India he may find it impossible to renew his contract, with the result that he is cast upon the world with qualifications which, however valuable in India, may be of little or no value elsewhere. It must not be supposed, for instance, that an expert in Indian forestry who has lost his post in India would be regarded as an expert in the forest work of any other Continent. The uncertainty of continuous employment would therefore militate against the chance of obtaining first-rate recruits." Then you see the conclusion they reach is that the officers should be recruited on the basis of a permanent career?—Yes, I was aware of that.

279. I do not know whether it is desirable to ask you; but does your experience in the department confirm that view?—I am doubtful myself. Our consulting engineer, who was one of the people who advocated the system of short term contract, is still I believe unconvinced by the Lee Commission's arguments. As a matter of fact we have had great difficulty, as I told Colonel Lane-Fox, in getting first-class men from England as Irrigation engineers—and it is no good getting any man except the first class—and he still thinks that it is just possible that men of that kind might be willing to come for a short period. He also holds that Irrigation engineering is of such a catholic nature in connection with building bridges, roads and so on that a man can almost be certain of getting employment elsewhere at the end of the period of contract. That is his personal view.

280. Colonel Lane-Fox: Has the experiment ever been tried of inviting people on short term contracts?—No, except for special posts of a particular kind.

281. The Chairman: There is one question which Colonel Lane-Fox put; I think the question put was supposing that Irrigation became a transferred subject, what difference would that make in the relations of the Central Government and the department and Mr. McWatters has developed that in his answer. I think it is useful also to look into the red book, page 199. There is in the Statute, in the Government of India Act, a general provision which gives the Governor-General in Council the power of superintendence, direction, and control over local Governments?—Yes.

282. And then the Statute has to be read together with the Devolution Rules and Rule 49 of the Devolution Rules provides: "The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall in relation to transferred subjects be exercised only for the following purposes", and the purposes are extremely limited, so that unless the Devolution Rules were altered, the result would appear to be this, would it not, that if a subject that is now a reserved subject in the province is transferred, then under the present rules the powers of superintendence, direction and control over the local Government vested in the Governor-General become extremely difficult? Is that not so?—Yes, that is so. I think that if it is necessary to retain a portion of European recruits, it might not be easy to transfer the subject exactly in the way in which subjects are now spoken of as transferred.

283. I am not expressing any opinion, but I want to see how the present position is. It appears to me that at present there is superintendence, direction and



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APPENDICES A AND B.

[Continued.]

control exercised in greater or less degree by the Government of India secretariat over the provincial administration as far as the reserved subjects are concerned?—Yes.

284. *Mr. Hartshorn*: The department for which you are responsible deals with mines and everything connected with mines. Does the department prepare any statistics dealing with the output, the number of persons employed, the cost of production, the price realised for the coal and the profit or loss in the individual mines or for the industry as a whole?—I do not think we have information quite as complete as that; but we have some statistics, commercial statistics, that might throw light on some of those points.

285. We get a document published by the Government at Home quarterly and also the annual reports by the Secretary for Mines. I want to know whether there is anything here corresponding to that?—Nothing as complete as that. We certainly have figures for the general out-turn for mines or possibly for groups of mines. But the out-turn for a man and profit and loss, etc., I do not think we have. But I can let you know what we have.

286. I should be very pleased if you could let us know what kind of statistics you have?—I will supply the information.\*

287. *Colonel Lane-Fox*: Have you got any returns regarding wages paid and so on?—No recent figures; but special enquiries have been made in certain industries. For instance, in Bombay a very complete statistical enquiry was made with regard to the wages for every class of worker in the Bombay cotton mills. There have been one or two enquiries of that kind and there are some general statistics of wages. But apart from that, I do not think we have any return which would give the actual wages of any particular class of worker in a particular factory.

288. The rate of wages is really an arrangement entered into in each case?—Yes.

*The Chairman*: We are very much obliged to you for a great deal of useful information. Thank you very much.

## APPENDIX A.

*Copy of letter from Mr. A. C. McWATTERS, C.I.E., I.C.S., No. G. 51, dated New Delhi, the 5th December, 1928.*

(*Vide pp. 176-7 and 181-2*)

When I appeared before the Statutory Commission at New Delhi on the 27th November, I undertook to supply the Commission with information on certain points.

2. As regards mines, it will be seen from page 40 of the annual report of the Chief Inspector for the year 1927, a copy of which is enclosed, that in all 1,104 mines were inspected during the year and many of them several times, the total number of inspections being 2,403. A good idea as to the distribution of mines between different provinces in British India will be obtained from Appendix I to the same report, Tables 2 and 4. The total number of mines in British India during the year 1927 which came under the scope of the Indian Mines Act was 1,992 (page 112 of the report), and the total daily average number of persons working in such mines in that year was 269,290 (page 1 of the report). As regards mines in the Indian States, the daily average number of workers during 1927 is estimated by the Director, Geological Survey of India, as 64,616. I regret that we have no reliable information as regards the corresponding number of mines or as regards their numerical distribution between the various Indian States, but the production Tables in Dr. Fermor's article on "The Mineral Production of India during 1927" in

\* *Vide Appendix A, above.*

the Records of the Geological Survey of India, Vol. LXI, Part 3, a copy of which is enclosed, give an accurate idea of the relative production of mines in Indian States as compared to mines in British India.

3. The total output of coal mines in British India during 1927 was 21,108,976 tons (page 44 of the Chief Inspector's report) and the average output per labourer during the same year was 185 tons of coal in underground and in open workings, the corresponding figure for all persons working above and below ground in coal mines being 128 tons (page 4). As regards the cost of raising coal in India, I am afraid that we have not attempted the working out of average figures. I enclose, however, a copy of the report of the Indian Coal Committee of 1925. Paragraph 29 of this report contains a discussion on the comparative prices of Indian and other coals and in paragraph 38 of the same report the Committee estimates the cost of raising coal as being approximately Rs. 5 in the Jharia field and Rs. 6 in the Raniganj field. In Dr. Fermor's article, quoted above, page 212, the pit's mouth value per ton of coal for the whole of India in 1927 is stated to be Rs. 4 as 4 p. 9 on the average. This of course is not the same as the average cost of raising coal.

4. As regards the administration of the Factories Act, the statistics of factories subject to the Indian Factories Act for the year 1927 is being printed and I shall send copies as soon as we get them from the press. Meanwhile, I enclose herewith a copy of the statistics for 1926 to which is attached a note on the working of the Factories Act during the year. The extent to which local Governments have made use of section 2 (3) (b) of the Act in order to extend its scope to factories employing less than 20 but more than 10 persons is dealt with in the concluding portion of para. 2 of the Note. The statistics for 1927 show that the number of factories so notified rose from 122 in 1926 to 160.

5. Three copies are enclosed of the correspondence with the Secretary of State on the question of the degree of control to be exercised by him and the Government of India over irrigation works.

6. I have ascertained that the local Government referred to in page 1491\* of Clow's book on "The State and Industry" is the Punjab Government.

## APPENDIX B.

*Copy of letter from Mr. A. C. McWATTERS, C.I.E., I.C.S., dated New Delhi, the 18th December, 1928.*  
(*Vide p. 175.*)

With reference to the evidence which I gave before the Indian Statutory Commission regarding the difficulty which we have experienced this year in recruitment for the Indian Service of Engineers, I should like to amplify the statement which I made. Originally nine recruits were required from England and the Selection Committee were, in the first instance, able to select only four candidates. Out of this number two fell out (one failed to obtain a qualifying degree and the other withdrew his application), leaving seven vacancies unfilled. In the meantime, our demand was reduced by one, thus leaving six vacancies to be filled. The Selection Committee in their second attempt (in which I may note that they were permitted to recommend candidates who had not undergone a full year's practical experience at the time of selection) selected six candidates and placed the names of three others on the reserve list, but out of this total number (nine), five fell out, three having withdrawn their applications and two having been rejected by the Medical Board. That is, on the second occasion, for the six vacancies, four candidates were available, bringing the total number of selected candidates to six against eight vacancies.

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MEMORANDUM BY Sir FREDERICK GAUNTLETT, K.B.E., C.I.E., I.C.S.,

## MEMORANDUM

By Sir FREDERICK GAUNTLETT, K.B.E., C.I.E., I.C.S., Auditor General in India, on

- (b) The classification of subjects as central and provincial ; and  
 (c) The financial relationships between the Central and Provincial Governments, including the Meston Settlement.

When these questions arose in connection with the Montagu-Chelmsford Reforms they were dealt with in two stages :—

- (1) The Feetham Committee made recommendations as to the apportionment of subjects between the Central and Provincial Governments, and
  - (2) The Meston Committee made recommendations as to the initial amounts which each province should contribute to the Central Government and as to the manner in which those contributions should gradually and progressively be reduced.
2. The recommendations of the Meston Committee were founded :—

- (1) on the principle that the whole of the expenditure upon, and the whole of the revenue accruing in respect of, a central subject, should be borne by, or handed over to, the central Government, and

- (2) on estimates of the expenditure which should be incurred upon, and of the revenue which would accrue in respect of, each subject.

3. While the principle referred to in paragraph 2 (1) above had long been recognised as correct in theory it had never before been followed completely in practice in framing provincial settlements. The necessary equilibrium between revenue and expenditure had previously been obtained by dividing between the Central and Provincial Governments the revenue and expenditure under a few heads. Even under the Meston Settlement it has since been found necessary to resort to a division between the Central and Provincial Governments of the revenue accruing from income-tax.

4. It is submitted that the procedure followed in connection with the Montagu-Chelmsford Reforms was inherently sound. The detailed, though extremely important, work which was done by the Meston Committee had to be taken in hand after the apportionment of subjects had been decided.

5. It is submitted at the same time that there may be practical advantages in not promulgating the decision as to the apportionment of subjects until the financial results of such apportionment have been estimated. In other words, it is submitted that the whole of this subject should be considered simultaneously by one executive Finance Sub-Committee working on behalf, and under the direction, of the Statutory Commission.

6. This Finance Sub-Committee would first place before the Statutory Commission its recommendations as to the apportionment of subjects between the Central and Provincial Governments. Having obtained from the Commission tentative orders on these recommendations it would then proceed to frame, on the basis of those tentative orders, a revised Meston Settlement. Its recommendations in this matter would then be submitted to the Commission. It might be found that the formulation of the revised Settlement might be simplified if minor modifications could be made in the apportionment of subjects which had tentatively been accepted by the Commission.

7. It is not desired in this note to discuss at length what changes should be made in Schedule I attached to the Devolution Rules. Proposals are to be found in the reports of the Muddiman Committee and of the Taxation Enquiry Committee and will no doubt be found in the report of the Royal Commission on Agriculture when that is published. It will be necessary, however, before the Finance Sub-Committee can consider what detailed proposals it shall

make, that the Commission should enunciate the principles to be followed in framing the proposals. It is submitted that the main principle should be to retain as central subjects only those which it is necessary so to retain in the interests of India as a whole. If it is desirable to state the principle in more detail it will be sufficient to add to this general principle a Paraphrase of clauses (2) and (3) of Devolution Rule 49 which prescribe the occasions on which the Governor-General in Council shall exercise powers of direction, superintendence and control over transferred subjects.

The principle might then be expressed thus :—

Only those subjects should be retained as central subjects which it is necessary so to retain in the interests of India as a whole. Thus those subjects should be so retained the administration of which by provincial Governments would be likely to lead to serious differences between provinces or to hinder seriously the due exercise and performance of any powers and duties which will be possessed by, or imposed upon the Secretary of State in Council or the Governor-General in Council under the Act as it will be after amendment in the light of the recommendations of the Commission.

8. Two good examples of subjects which, in accordance with this principle, will have to be retained as Central are Major Ports and Customs.

Karachi and Chittagong are, and Vizagapatam will be, major ports. These ports respectively are situated in the provinces of Bombay, Bengal and Madras and yet they serve, or will serve, mainly the provinces of the Punjab, Assam and the Central Provinces.

Customs dues must be levied almost entirely at ports and yet they are levied on goods destined for every part of India.

9. One change of classification in particular which should be made deserves mention. The author of this memorandum suggested to the Muddiman Committee, and the suggestion was unanimously accepted, that it was desirable to give provinces as much financial independence of the Government of India as possible. They should, therefore, be given control over their balances and, as an essential preliminary to such independence, should be given control over their own accounts.

10. The revision of the Meston Settlement will be a difficult and complicated problem. The Meston Settlement is merely the last of a series of similar settlements which have been entered into between the Central and Provincial Governments during the last 50 years and it is safe to say that no settlement has ever satisfied the provinces as a whole. Difficult though the task may be, any revision of Schedule I of the Devolution Rules must necessarily entail a revision of the settlement and it is inconceivable that the work of the Statutory Commission will involve no change in that Schedule.

11. I think the first step in the formulation of the new settlement will be the determination of the scales of expenditure under each head by the Central and Provincial Governments. This is probably the most difficult portion of the problem, and the following suggestions are therefore put forward with some diffidence :—

(a) The objects of expenditure should be divided into the following classes :—

- (1) Those necessary for the maintenance of law and order ;
- (2) Those necessary for the collection of revenue ;
- (3) Those necessary for the general administration of the country ;
- (4) Those in which the scale of expenditure must be determined largely by the natural features of the province ;

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[Continued.]

(5) Those to which the convenient appellation of "nation building" objects of expenditure has already been applied in common parlance.

(b) The existing scale of expenditure on those objects falling within categories (1), (2) and (3) should generally be accepted subject to scrutiny as to the degree of economy or extravagance which seems to obtain in individual provinces.

(c) The scale of expenditure on objects falling within category (4) should be determined with reference to the existing scale of expenditure and also to the possibility of, and the need for, future developments.

(d) The revenues available after meeting the expenditure on objects falling within categories (1) to (4) should be made available for expenditure on objects falling within category No. (5) by distribution between provinces based approximately on population.

12. This very brief summary of the suggestions obviously requires considerable amplification and elucidation.

The principle underlying (a) is that provision must be made for the essential features of Government which are set out in categories (1), (2) and (3). The forms of administration, and especially of collections of revenue, vary so markedly from province to province that it is impossible to distribute expenditure for these purposes over India merely on the basis of population. It is not practical politics, nor is it desirable, to make at a moment's notice marked changes in the existing methods of administration in various provinces. The best illustration of this point is afforded by the collection of land revenue. The cost of collection must necessarily be much less in a permanently settled area such as Bengal than in a province where there are temporary settlements with Zamindars such as the Punjab, and the greater part of the United Provinces. The expenses in collection in the latter again must be much less than in provinces where settlement is directly with the cultivator such as in large portions of the Bombay and Madras Presidencies.

At the same time there is reason to believe that the same degree of economy did not obtain in the various provinces when rates of pay were raised all over the country after the recent war. Those provinces in which the greatest degree of economy has been shown are entitled to reap the benefits of such economy by having more money available for expenditure under the fifth category.

If it were deemed desirable to recognise the need for such an important reform as the separation of the judicial from the executive, an estimate of the cost of such a reform in each province could be made and provision made for the same in the settlement.

13. The main classes of expenditure which fall under the suggested category No (4) are Irrigation and Forests. Here again it is quite impossible to distribute revenues between various provinces for expenditure under these heads on the basis of population. The expenditure on Forests must be determined by reference firstly to the extent of the forests now available for exploitation and secondly to the possibility of creating additional forests with benefit to the country as a whole. In the same way, the expenditure on Irrigation in each province must be determined firstly by the need of maintaining the existing canals in an efficient manner, and secondly by the possibility of constructing new canals which will add to the revenues of the province or avert possible large expenditure on famine.

14. It is suggested that the method of determination of the scale of expenditure on objects falling within the category No. (5) should be markedly different from the methods indicated above for the determination of the scale of expenditure on objects falling within the other categories. The various provinces have generally a claim to similarity of treatment in this matter and this can best be obtained by recognising generally that the apportionment of the available funds between the various

provinces for such expenditure should be on the population basis.

This, however, can only be a general principle. In practice there must be exceptions. There are backward tracts of greater or less extent in most provinces and, however desirable it may be to spend money on nation building objects in these tracts, it will not be practicable for some time to come to spend money on these objects as freely in these tracts as in the more settled portions of each province. Provision therefore should be made for expenditure in those tracts which at the outset shall be smaller than in the more settled parts of a province but increasing gradually over a series of years up to the level of expenditure possible in the remaining areas in the provinces.

15. Any solution of the problem along these lines will involve a great deal of preliminary investigation and study and if this method of tackling the problem is accepted at least experimentally, the initial enquiries should be started as soon as possible.

16. When the scale of expenditure of the Central and of each Provincial Government has thus been determined and an estimate made of the total revenue which will be required to meet such expenditure by the Government of India and by each Provincial Government, the next problem will be the apportionment of the revenues between the various Governments so as to meet the expenditure of each Government as estimated in the manner indicated above. The Commission will doubtless desire to retain the present principle that the revenues accruing in respect of

Central Provincial subjects shall accrue to Central Provincial revenues.

It is impossible, however, to hope that the revenues thus accruing to each Government in India shall be equivalent to the expenditure to be incurred by each Government. The problem as to the manner in which the surplus revenues are to be utilised, or the deficits in revenues met has arisen in the case of every settlement between the Central and Provincial Governments. Prior to the Meston settlement the method adopted was to divide a few of the revenue and expenditure heads between the Central and Provincial Governments in proportions which might vary from province to province. The method adopted in the Meston settlement was to require Provincial Governments to make annual assignments to the Central Government, and to make provision for the gradual reduction of those assignments. It has, however, been found necessary to re-introduce the old system of divided heads, although one head alone, Income Tax, has been so treated.

It is suggested that one of these two methods will have to be adopted in the new settlement and that it is rather a question of convenience than of principle which of the two methods is to be adopted. Provincial Governments have urged justifiably that their existing sources of taxation give much less hope of a rapid increase of revenue than those sources of taxation which have been reserved for the use of the Central Government. The apportionment of sources of taxation between the Central and Provincial Governments will obviously be a matter for consideration by the Commission and the preliminary consideration of its question might profitably be handed over by the Commission to the Finance Sub-Committee suggested above, if such a Sub-Committee be constituted. Unless, under the new apportionment of sources of taxation, the provinces can be given sources of revenue which are likely to yield revenue which will increase rapidly, it may be desirable so as to give the provinces that increase of revenue which they need by having one or more divided heads, the number of course of such heads being kept to a minimum.

Even with this device it may still be necessary to provide for assignments either from or to the Central Government though the object of the Sub-Committee should be if possible to avoid the use of both these means of bridging the gap between revenue and expenditure in any province.

17. The Sub-Committee which has been suggested would be in a position to assist the Commission in the consideration of numerous other matters such as :

- 3 (e) Finance of local bodies ;
- 4 (h) Classification into reserved and transferred subjects ;
- 4 (j) Provincial autonomy in relation to finance ;
- 4 (k) Control of Provincial finances ;
- 4 (l) Financial relations between reserved and transferred sides of the Provincial Government including the question of the joint or separate purse.

18. In conclusion, it may be desirable to elaborate the argument as to the need of urgency in this matter. It is understood that the ordinary term of the existing Provincial Councils will expire about November, 1929, and that the term of any Council can be extended for a period not exceeding one year. If this be so, the existing Councils must come to an end on or before November, 1930, and it will be desirable that the election of the new Councils should be undertaken under the rules which will have to be framed to give effect to the decisions of Parliament on the recommendations of the Statutory Commission. Thus, the changes in respect of franchise and the legislatures should be ready before the close of 1930. It is of course desirable that changes in financial rules should

be made at such a date as will enable effect to be given to them at the beginning of a financial year. Thus, it is neither necessary nor desirable that the new franchise and financial rules should come into effect from the same date. It is, however, very desirable that they should come into effect on dates which are as close as possible to each other so that if the franchise rules are to be ready for application in the latter half of 1930 the financial rules should be ready for application on or about the 1st of April, 1931. It will be impossible to make the detailed enquiries which are suggested in this memorandum if their start is postponed until after the new Act has been passed by the Houses of Parliament. It is submitted, therefore, again that the Finance Sub-Committee which is suggested in this memorandum should be appointed if at all so that it can be working at the same time as, and in consultation with, the Statutory Commission and not after the Commission has ceased to function.

(Sd.) M. F. GAUNTLETT.  
Auditor General in India.

No. 419-Admn./333-27,  
Imperial Secretariat, New Delhi,  
13th of March, 1928.  
The Indian Statutory Commission,  
Camp, India.

### MEMORANDUM FOR THE STATUTORY COMMISSION.

#### Section I.—The Functions, Powers and Status of the Auditor General in India, and his relations with the executive authorities.

The proposals made in this section are based on the assumptions that, whatever constitutional changes take place, the Auditor General will remain entirely responsible for the audit of the accounts of Government expenditure in India, and that he will conduct his audit on behalf of two different authorities, the Secretary of State in Council and the various Indian Legislatures.

##### 2. Access to the Secretary of State.

At present, the Auditor General's sole avenue of access to the Secretary of State is through the annual letter with which he forwards to the India Office the Appropriation Accounts of the central Government and the various provincial Governments with the reports of his audit officers thereon. It is submitted that something more in the way of direct access is urgently required. It will be remembered that there are a number of powers, in various connections, which the Secretary of State has retained in his own hands, and that it is one of the primary duties of the Auditor General to watch for encroachment upon these powers by authorities in India and to require a report to the Secretary of State whenever he finds such encroachment. If the Auditor General feels any doubt as to the interpretation of an order of the Secretary of State, he has no direct means of ascertaining the wishes of that authority except by raising the question in his annual letter to the Secretary of State and this may involve considerable delay which in a particular case may be very undesirable. Experience has shewn that the Government of India are not prepared to make, at his request, a reference to the India Office on a general question of interpretation. His only recourse in such a case is to refuse to pass expenditure if he has any doubt as to the validity of the sanctioning order, in the hope of forcing a reference to the Secretary of State; but, under the statutory rules as they stand, this result will not necessarily ensue, since the executive Government can compel the withdrawal of the objection by engaging to report the matter to the Public Accounts Committee.

3. Again, while the Auditor General remains entirely responsible, both to the Legislatures and to the Secretary of State, for the efficiency of audit in India and for the preparation of the Finance and Revenue Accounts and very largely for the maintenance of the accounts of Government transactions, his powers of

sanctioning expenditure are limited and are derived by delegation from the Governor General in Council. The work of the audit establishment is continually expanding, and it is obvious that, unless the Auditor General is provided with funds to expand his staff as required, it is impossible for him to guarantee an effective audit. There has already been one occasion on which, being refused funds at a time of financial stringency, the Auditor General had to give official warning to the Government of India that he was not in a position to fulfil his statutory responsibility. So far as his responsibility to the Legislature is concerned, he is in a position to make the situation quite plain through the medium of the Public Accounts Committees; but it seems essential to empower him to represent matters at once to the Secretary of State, without waiting for his annual report, when he finds himself unable to fulfil his statutory responsibility to that authority.

4. It is, therefore, urged that it is constitutionally most desirable to prescribe that the Government of India should forward without undue delay to the Secretary of State in Council any memorandum addressed by the Auditor General to the latter authority. They should, of course, in doing so, be entitled to add their own comments on the subject discussed in the memorandum.

If it is thought that this power of the Auditor General should be limited in any way it might be prescribed that such a memorandum must relate to

- (a) an interpretation by the Secretary of State of an order passed by the Secretary of State, or
- (b) a breach by an authority in India of an order passed by the Secretary of State, or
- (c) a refusal by the Government of India to sanction establishment deemed necessary by the Auditor General for the safeguarding of his responsibility for the efficiency of audit in India.

##### 5. Audit of the Accounts of expenditure in England.

Under section 27 of the Government of India Act, as it stands at present, an auditor is appointed in England to examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of the Act. Clause (2) of that section is so worded as to entrust to the Home Auditor the



MEMORANDUM BY SIR FREDERICK GAUNTLETT, K.B.E., C.I.E., I.C.S.

[Continued.]

scrutiny not only of the accounts maintained by the Secretary of State in Council but also of those of the High Commissioner for India. This situation gives rise to certain anomalies, which call for detailed examination.

6. The first provision for the appointment of the Home Auditor appeared in the Government of India Act of 1858. Its main object was to provide an independent authority which would scrutinise on behalf of Parliament the exercise by the Secretary of State in Council of the powers entrusted to him by the Act. At that time the Secretary of State in Council was, under sections 2 and 21 of the Act, the supreme authority in respect of expenditure from the revenues of India. He delegated certain powers to authorities in India, and watched their exercise of those powers through the agency of the Comptroller and Auditor General in India, who was appointed by the Secretary of State but worked in direct subordination to the Government of India. Thus the Secretary of State, as the ultimate spending authority, watched, with the aid of the Comptroller and Auditor General in India, the expenditure of the authorities to whom he had delegated power; while he answered for his own outlay to Parliament, which derived its information from the Home Auditor appointed for the purpose.

7. With the reformed constitution, the position as regards expenditure has undergone considerable change. In the first place, the ultimate power of sanctioning expenditure has, in respect of provincial transferred subjects, passed from the Secretary of State in Council to executive authorities in India. Secondly, specific appropriation of funds is now necessary before expenditure can be incurred, and in many cases such appropriation must necessarily take the shape of a vote by a legislative body in India. Not only is a considerable portion of the outlay of the Secretary of State himself financed from funds so voted, but the position is further complicated by the institution of the High Commissioner for India who spends, as the agent of the central and provincial Governments, monies partly voted by their respective legislatures and partly, in respect of non-voted items, allotted by the executive Governments. Finally, statutory provision has been made for the appointment of an Auditor General in India, who is largely independent of the Government of India and is responsible, *inter alia*, for the audit of the expenditure in India from the revenues of India. The results of this audit are reported both to the legislatures in India and to the Secretary of State in Council.

8. The existing position involves more than one anomaly. As has been already stated, section 27 of the Government of India Act is so worded that, on the creation of the High Commissioner, his accounts became automatically subject to the audit of the Home Auditor and, under clause (7) of the same section, the latter is required to lay his reports upon those accounts before both Houses of Parliament. It is inconsistent with the constitutional position of the High Commissioner as an authority subordinate to the Government of India that his accounts should be submitted separately direct to Parliament, rather than as a part of the accounts of the Government of India as a whole. On the other hand, there is no provision in the Act for the submission to the legislatures in India of the report upon the accounts of the High Commissioner; although the expenditure which they represent has been sanctioned either by the executive authorities in India or by the High Commissioner himself in virtue of powers delegated by those authorities, while a large part of the funds to cover the expenditure has been voted by the legislatures. It appears essential that the Act should be so amended as to require the submission to the legislatures in India of the reports of the High Commissioner's accounts; and a similar procedure seems desirable in the case of the Secretary of State's accounts also, seeing that these also deal with a considerable amount of expenditure of funds voted by the Indian Legislatures.

9. Again, the High Commissioner for India acts under the direct instructions of the Government of India. His financial transactions are governed entirely by those instructions and by such compilations as the Civil Service Regulations and the Fundamental Rules. The great majority of such rules and orders has to be followed by subordinate authorities in India as well as by the High Commissioner. The transactions of the latter authorities come under the audit of the Auditor General in India, and it is essential that the officers responsible for the audit in the two countries should interpret the rules and orders in the same way. There is specific provision both in the Civil Service Regulations and the Fundamental Rules that the final authority for the interpretation of these rules vests in the Government of India; and that authority is in actual practice exercised in direct consultation with the Auditor General, who circulates the interpretations so given as "Audit Instructions." It seems, therefore, to be most desirable that the official in the United Kingdom who is entrusted with the audit of the accounts of the High Commissioner should act in direct subordination to the Auditor General in India. This result could be achieved either by posting in the United Kingdom a member of the Auditor General's ordinary establishment, or by arranging that the Home Auditor should, in respect of the High Commissioner's accounts, act as a representative of the Auditor General in India, responsible to the latter official.

10. Again, under sub-section (1) of section 27 of the Government of India Act, the Home Auditor's assistants are specified in the Warrant of his Appointment. As a result, the power of appointing these assistants, both gazetted and non-gazetted, vests in practice in the Secretary of State; while the statutory character of their appointment renders their pay non-voted. On the other hand, the majority of the staff working under the Auditor General in India is sanctioned by the Government of India, and the greater portion of the funds from which expenditure on that staff is financed is provided by the vote of the legislature. There appears to be no obvious reason why the procedure in the two cases should not be brought into line, the staff employed on the audit of the High Commissioner's transactions being sanctioned by the Government of India and paid out of funds which, to the extent necessary under the sections of the Act other than 27, are voted by the Legislative Assembly.

11. The recommendations made in this section of this memorandum as regards the audit of the accounts of expenditure in the United Kingdom may be summarised as follows:—

- (1) Provision should be made in the Act for the submission to the appropriate legislative bodies in India of the reports on the accounts of the High Commissioner and the Secretary of State in Council.
- (2) It is unnecessary that the report on the High Commissioner's accounts should be submitted direct to Parliament.
- (3) The High Commissioner's accounts should be audited by an authority responsible to the Auditor General in India.
- (4) The subordinate staff employed upon the audit of those accounts should be appointed by the Government of India and its pay, to the extent necessary under Sections of the Act other than 27, should be voted by the Legislative Assembly.

12. *Responsibility for the Compilation of Accounts.* The question whether the Auditor General should retain his existing responsibility for the compilation of accounts is discussed in paragraphs 17 and 18 of section II of this memorandum.

13. *Minor Amendments of the Statutory Rules made under section 96D (1) of the Government of India Act.* The relations between the Auditor General and the executive authorities in India are required, under section 96D (1) of the Government of India Act, to be regulated by rules of the Secretary of State in

Council providing "for his pay, power, duties and conditions of employment." If any of the proposals made in the foregoing paragraph of this memorandum is adopted, the correct method of giving effect to it will be by amendment of the "Auditor General's Rules" made under the section quoted. There are, however, certain other directions in which the need for minor amendments of those rules has already become apparent, and the remaining paragraphs of this Section will deal with points in question.

14. (a) *Rules 3 to 7.* These rules contain provision for what may be called the personal conditions of the Auditor General's employment, and it will be noticed that they are far from complete. They make no mention of the arrangements to be made for the Auditor General when travelling on duty; for the terms on which he may be supplied with a residence by Government or for the passages to England to which he may be entitled. They make no provision for his compulsory retirement, which is left to be governed by the apparently ambiguous statement in Section 96D (1) that he shall hold office during his Majesty's pleasure. It is suggested that the rules should be made, in this respect, entirely self-contained.

(b) *Rule 12.* Under this rule the Auditor General does not become responsible for the audit of revenue and receipts or of stores and stock unless, in any particular case, the Governor General in Council has specifically required him to assume this responsibility. In other cases, such audit, so far as it is performed at all, remains a function of the executive Government concerned; and its cost, in the case of the provinces, is a charge upon provincial revenues. It is suggested that the time has now come to recognise that the audit of receipts and of stock accounts is at least of equal importance to that of accounts of expenditure, and that it should, like the latter,

become a central function. It would not be possible for the Auditor General to assume immediate responsibility for a universal audit of this kind. This would entail a considerable expansion of the establishments under his control, and much time must be consumed in training the necessary personnel. It should be sufficient to frame a rule which will recognise his ultimate responsibility for such audit and provide for its transfer to him as he is in a position to undertake it. It might be possible to cover the interval by expressing the audit as a function of the central Government, and empowering the latter to employ, for the present, the agency of provincial Governments in fulfilling it. The allocation of the cost of such audit as is now performed would, however, probably present grave difficulties and for this reason this alternative is not recommended.

(c) *Rule 17.* Under this rule, the Auditor General has "power to require that any books, papers or writings relating to the accounts audited by the Audit Department shall be sent for inspection by him or by any other officer of the Indian Audit Department." Questions have arisen as to the interpretation of this rule, centring round the meaning of the expression "books, papers or writings." It has been questioned whether it entitles the Auditor General to see the Secretariat files of Government, and, in particular, files containing discussions of the disciplinary action to be taken against Government servants who have been held responsible for financial irregularities detected in the scrutiny of the accounts. It is most desirable that the rule should be so amended as to leave no doubt as to the nature of the documents for which the Auditor General is entitled to call. It is unnecessary to emphasise the fact that, where the Auditor General is empowered to criticise executive action, it is in the interests of all concerned that the criticism should be based upon the most accurate information available.

## Section II.—The Compilation of the Accounts and the Classification of the Expenditure recorded in their present position.

15. The general rules governing the compilation of the accounts are laid down in rules 18 to 24 of the statutory rules made under section 96D (1) of the Government of India Act. All these rules are designed to lead up to the preparation of the Finance and Revenue Accounts of India, which the Secretary of State in Council is required, by section 28 of the Act to lay annually before both Houses of Parliament. The form of those accounts is prescribed by the Secretary of State in Council, and the duty of compiling them is laid upon the Auditor General. To enable him to fulfil this duty, the latter is armed with power to decide the form in which the preliminary accounts will be maintained in the offices of accounts and audit under his control.

16. Rule 25 of the same rules is a comparatively new addition. It was designed to meet the circumstances created by the recent institution of a number of experiments, under which the responsibility for the maintenance of accounts has been transferred from the Auditor General to the Finance Department either of the Government of India or of a Local Government. In such cases, the Auditor General is still required to transmit the complete Finance and Revenue Accounts. So far, however, as the transferred accounts are concerned, his responsibility is limited to the prescription of the form in which those accounts shall be compiled, and their incorporation, after compilation in the Finance and Revenue Accounts.

17. *Responsibility for Compilation.* It is suggested that the time has come when the transfer to the Finance Department of the responsibility for the compilation of the accounts should be made a permanent feature of the constitution. So far as the accounts of Local Governments are concerned, this measure is clearly indicated. It is assumed that the

constitutional development of relations between the central and provincial Governments in India must inevitably proceed more or less on federal lines; and that the provinces will in the ordinary course assume the responsibility for the custody and control of their own financial resources. An essential preliminary step, which cannot be taken too soon, is the assumption of responsibility for their own accounts. On the other hand, so long as the Secretary of State and the Government of India retain any sort of ultimate control over the financial operations of local Governments, the retention of a strong central audit may be held to be a necessity.

18. The need to transfer to the executive authorities the compilation of the accounts of the central Government is rather less obvious. The main argument in favour of the transfer, from the standpoint of principle, is that it is just as necessary to subject to independent scrutiny the system of accounting adopted and the accuracy with which the system is applied in practice as it is to subject to independent scrutiny the exercise by Government servants of the financial powers entrusted to them. There are also practical arguments in the favour of such transfer. The experiments undertaken have shown that such transfer has resulted in great improvement of the control over expenditure; while there is evidence that audit officers, when relieved of the task of compiling accounts and the other distractions attendant thereupon, have been able to apply a more effective audit scrutiny to the transactions recorded in the accounts. It is considered, therefore, that in relation to the central Government also audit should in future be limited to its true function, which may be described as criticism of the completed work of others.

19. *The form of the Finance and Revenue Accounts.* If the compilation of the accounts is in future to be transferred to the executive authorities, it is necessary to consider whether section 26 of the Government of India Act should remain in its present form. That section contemplates a single set of Finance and Revenue Accounts, prepared on uniform lines for the whole of India; and even so the accounts of the financial year 1926-27 covered more than 600 foolscap pages of print. When the maintenance of provincial accounts becomes a provincial responsibility, there may be a tendency for individual provinces to vary account forms to suit their own tastes and requirements. It is for consideration whether such individual variations should be permitted to affect the final form of the Finance and Revenue Accounts, with the inevitable result that true consolidation will become impracticable and that the separate exhibition of the accounts of different provinces will enormously increase the bulk of the documents to be presented to Parliament. It is submitted that it is unnecessary to allow a full discretion of this kind. If executive authorities are permitted to vary the form of their preliminary accounts, the concession should be subject to two conditions, firstly, that the accounts must be presented for audit in such form as the Auditor General is prepared to accept as suitable, and secondly, that, when the final compilation is delivered to the authority which will consolidate the accounts for the whole of India, it must be delivered in such shape as the Secretary of State in Council may prescribe. It may ultimately be found impossible, as provincial autonomy progresses to maintain a rigid rule of this kind; but it is not in itself unreasonable and would not be inconsistent with a complete federal constitution.

20. *Classification of Expenditure within the Accounts.* An important provision regarding the classification of expenditure appears in rule 20 of the statutory rules under section 96D (1) of the Act, which prescribes that, if a doubt or a dispute arises as to the major head under which a particular minor head, or as to the minor head under which a particular detailed head, of account should be included, it shall be decided by the Auditor General. This is clearly a proper function of audit, which is required to certify to the accuracy of compiled accounts. The

assignment of expenditure to a particular head of account is not, however, the only point as to which a doubt may arise. Under the present constitution of India, expenditure must be divided into other and parallel classes. It must, in the first instance, be either central or provincial expenditure; secondly, whether central or provincial, it ensures classification as voted or non-voted; thirdly, provincial expenditure falls again into two classes, according as it is incurred upon reserved or upon transferred subjects. In the case of a doubt whether expenditure is central or provincial, the decision rests with the Governor General in Council under rule 4 of the Devolution Rules made under section 45A of the Government of India Act. Sections 67A (4) and 72D (3) of the Act itself lay upon the Governor General and the Governor, respectively, the duty of deciding a dispute as to votability. Finally, Devolution Rule 7 makes the Governor the final authority in the case of doubt whether an object of expenditure appertains to a reserved or to a transferred subject.

21. The classification of expenditure as voted or non-voted, reserved or transferred, is exhibited in the Finance and Revenue Accounts, and, if such exhibition is to continue, it seems most desirable that the classification should be uniformly regulated throughout India. At present, there is no such uniformity. In respect of votability, practice varies considerably in the provinces, largely as a result of certain ambiguities in the wording of the relevant section of the Act. In the matter of reserved and transferred subjects, discrepancies are less numerous; but they do exist. A typical example is the different treatment accorded in different provinces to expenditure by the Public Works Department, a department administering a transferred subject, upon buildings intended for use in connection with a reserved subject. It is submitted that, if this classification of expenditure is to continue, it is most desirable that it should be regulated on uniform lines by a single authority. A possible arbiter would be the Courts of Law, but it is probably unnecessary to subject decisions of this kind to an elaborate judicial procedure. It would meet all the requirements of the case if the Secretary of State in Council retained in his own hands the power which has hitherto been entrusted to the various Governments.

### Section III.—Certain important questions of general interest which, while not primarily the concern of the Auditor General, have come prominently to notice in the course of audit operations.

22. *Preliminary remarks.* This section of the memorandum will contain comparatively brief comments on certain important questions of general interest which have come prominently to notice in the course of audit. These questions are mainly concerned with the interpretation of the Government of India Act and the statutory rules made under it. It will be for the Home and Finance Departments of the Government of India, rather than the Auditor General, to bring these questions to the notice of the Statutory Commission; and for this reason it is proposed to do no more in this memorandum than intimate very briefly the nature of the problems involved. The reference is confined to questions of major importance. There are numerous minor points in which the statutory rules, in particular, could with advantage be amended; but it is considered unnecessary to bring them specifically to the notice of the Commission.

23. *Questions affecting the budget and budget procedure.* These questions centre largely round the interpretation of sections 67A and 72D of the Act; the following are of considerable importance, and, assuming that the existing structure of the Act is maintained generally intact, it seems eminently desirable that it should be so amended as to leave no doubt of the intention in each case.

(a) That is the meaning of the phrase "appropriation of revenues or moneys relating to heads of expenditure" in sections 67A (4) and 72D (3)?

Does the clause "relating to," etc. limit "appropriation" or "revenues or money"? As the revenues received by Government ordinarily bear no relation to any specific head of expenditure, the latter interpretation seems impossible. On the other hand, if it is intended to limit "appropriation," the word "relating" is redundant and misleading.

(b) In the same clause, what is the meaning of "expenditure"? Does it include sums technically treated as "expenditure" under the so-called Debt and Remittance heads, which involve no real disbursement by Government at all? It is suggested that it is wrong in principle to submit to the vote transactions which affect only the Debt and Remittance section of the accounts.

Again, should the clause so operate as to render it necessary to submit to the vote the appropriation from revenue to a depreciation or reserve fund as well as the subsequent allocation of moneys from such fund for actual outlay.

(c) With reference to the same clauses, in what shape should a demand for a grant be presented when a part of the gross expenditure is to be recovered from another Government or from another department of the same Government? Should it shew the gross account, or the net figure as reduced by the recoveries?

(d) What is the meaning of "the amount of which" is prescribed by or under any law" in section 67A (3) (ii) and section 72D (3) (iii)? As at present interpreted in India, though full effect has not been

MEMORANDUM BY SIR FREDERICK GAUNTLETT, K.B.E., C.I.E., I.C.S.

[Continued.]

given to that interpretation, it excludes from the vote practically all outlay on officers and establishments. It is suggested that only those payments should be protected from the vote which,

- (i) have to be made by or under statute, and
  - (ii) the circumstances being what they are, the amounts to be paid are incapable of variation by any officer of Government.
- (e) Is it permissible, in a Governor's province, for the executive Government to submit to the vote, if it so desire, expenditure which is covered by section 72D (3)? Is there any significance, in this connection, in the fact that the clause in question is worded differently from the corresponding clause (3) of section 67A?
- (f) Do the existing Act and statutory rules permit the establishment of a Civil Contingencies Fund and the submission of token demands for votes in cases, such as that of expenditure on a new service, where a supplementary demand is necessary although funds are available by re-appropriation? The Government of India have held that neither expedient is permissible, though certain local Governments have adopted either or both of them.
- (g) Should not the phrase "new service not contemplated in the budget" be defined in the Act?
- (h) What is the correct interpretation of provisos (a) and (b) to section 72 (2). Different Governors have adopted different interpretations.
- (i) Rule 26 (1) of the Legislative Council Rules states that demands for grants for reserved and transferred subjects should ordinarily be presented separately. Should not separate presentation be made an absolute rule, and similar treatment prescribed for expenditure from revenue and expenditure from borrowed funds?
- (j) Rule 44 of the Legislative Council Rules lays down that there should ordinarily be one grant "for each department of Government." In one province, "department of Government" has been interpreted as meaning "all activities of Government included in a single portfolio" with the result that

four demands only are presented yearly to the Legislative Council. If, as appears to be certain this interpretation is incorrect, should not the rule be reworded to make its meaning clear?

(k) Should not clear provision be made, either in the Act itself or in the Devolution Rules, defining the circumstances in which it is legitimate to expend central moneys on provincial subjects and provincial moneys on central subjects? Cases constantly arise in which such expenditure is both convenient and in its nature unobjectionable.

24. *Questions affecting statutory rules.* (1) Section 96D (2) of the Act contemplates that the Finance Department of the Government of India should be a distinct entity, with definite functions conferred upon it; and to this extent it appears to be inconsistent with section 40 (1), which would seem to place all departments of the central Government upon an equal footing as part of an indivisible authority with full power to act on behalf of that authority. In actual practice, the Finance Department exercises functions very similar to those entrusted to provincial finance departments by the Devolution Rules, and it is clearly desirable that it should do so. Should not its status be fortified by provision either in the Act or in the statutory rules?

(m) In paragraph 14 of this memorandum, it has been suggested that the rules made under Section 96D (1) of the Act, regulating the conditions of service of the Auditor General, should be made completely self-contained. This course has already been adopted in the case of the Judges of the High Courts and the members of the Public Service Commission. Should there not be a similar set of self-contained rules for Members of Executive Councils, whose conditions of service are regulated partly by the provisions of the Act itself, and partly, on points whereon the Act is silent, by the rules of general applicability made under section 96B (2)? The desired rules could be made under either section 94 of the Act, or, if it is held that all Members of Executive Councils are members of "the civil service in India," under section 96B (2) itself.



MEMORANDUM BY MR. W. R. BARKER, C.B., TO THE STATUTORY COMMISSION.

## MEMORANDUM BY MR. W. R. BARKER, C.B., CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

1. I am the Chairman of the Public Service Commission and have held the post since its establishment in October, 1926. I came to India in the preceding May, having had no previous experience of India. I served in the English Board of Education from 1903 to 1925 and was for a great part of that time its legal adviser. I write this Memorandum in my personal capacity and do not claim to speak on behalf of the Commission. This Memorandum has not been discussed by the Commission. I believe one at least of my colleagues proposes to furnish a Memorandum. I am however permitted to say that my colleague Sir T. Vijayaraghava Acharya who does not propose to submit a Memorandum is in general agreement with paragraph 25 (Ministers Conference), paragraphs 26 to 50 (the Indian Civil Service), paragraphs 53 to 71 (methods of recruitment), paragraphs 81 to 105 (local public service commissions) of this Memorandum.

2. The Commission consists of five members of whom two at least must under the rules be persons who have been for at least ten years in the service of the Crown in India. It consisted originally of three Europeans and two Indians. For a short period it consisted of two Europeans and two Indians; and leave and other factors from time to time cause changes in its composition. One member is a member of the Indian Civil Service, another of the Provincial Civil Service, one is a former member of the Council of State, one is an *ex-Vice-Chancellor* of an Indian University. Two are professional lawyers. The Chairman has few special powers. He has a second or casting vote which it has been hardly ever necessary to exercise. He also has the power to decide whether the dissent of the members who are in a minority shall be communicated to Government and a certain right (which has never been exercised) to call for the reconsideration of business transacted in his absence. The members approach questions from many different angles and from very varied experience and there is a very healthy diversity of view. No decision of the Commission has ever been influenced by racial or communal considerations.

3. The Secretary of State in his despatch of 9th April, 1925, expressly contemplated that the Statutory Royal Commission would propose an extension of powers of the Public Service Commission which experience and the conditions of the time might show to be desirable. He did this in a paragraph in which he expressed a doubt whether a Commission constituted on the limited advisory basis proposed by the Government of India and ultimately adopted would command the confidence alike of the public and of the services to the degree which was necessary if the latter was to function efficiently. I think the doubt has been justified; and I desire to state the case for an extension of powers.

4. The origin of the Public Service Commission is to be found in paragraph 55 of the First Despatch on Indian Constitutional Reforms of 5th March, 1919:—"In most of the dominions where responsible Government has been established the need has been felt of protecting the public service from political influences by the establishment of some permanent office peculiarly charged with the regulation of service matters. We are not prepared at present to develop the case fully for the establishment in India of a public service commission but we feel that the prospect that the services may come more and more under ministerial control affords strong grounds for instituting such a body."

5. In 1919, Parliament enacted (Government of India Act, 1919, Part I of Schedule II) that there shall be established in India a public service commission which shall discharge in regard to recruitment and control of the public services in India such functions as may be assigned thereto by rules made by the Secretary of State in Council.

6. It is plain that the establishment of a Public Service Commission was regarded as an essential safeguard in the working of the reforms and its enactment was contemporaneous with and formed part of the scheme of those reforms. The reference to the dominions in the despatch quoted above shows that in proposing a public service commission the framers of the despatch were contemplating a commission vested with ample and decisive powers possessed by similar commissions in the dominions. The reference to ministerial control shows that it was intended that the powers of the Commission should extend into the provinces, since it was only in the provinces that ministers existed.

7. Though it was in 1919 that Parliament enacted that a Public Service Commission should be established, it was not till October, 1926, that it came into operation. The Commission was intended to be a check on certain undesirable features which might be expected to accompany the reforms. The check was not applied for seven years and then in a form less effective than Parliament had contemplated.

8. The establishment of the Commission was eventually expedited by the Report of the Royal Commission on the Superior Civil Services in India, dated 27th March, 1924, and the Commission was in fact established less than 3½ years after that Report was issued. The report deals with the Public Service Commission in paragraphs 24 to 31. While that Commission assigned to the Public Service Commission functions less extensive than those contemplated in the Government of India Act inasmuch as it gave the Public Service Commission very little control of the Public Services, it assigned to it functions far more extensive than those which were ultimately assigned to it in 1926. The original conception of a Public Service Commission was progressively whittled away till little of the original idea survived.

9. I consider the powers of the Commission to be defective and for the purpose of elaborating this criticism two separate questions arise:—

- (a) How far are its powers effective within the ambit in which it exercises those powers? The ambit is substantially the All-India Services and the Central Services, Class I.
- (b) Is that ambit sufficiently wide? I deal with that question in the section of this Memorandum which relates to Local Public Service Commissions.

10. I will first define my conception of the work which a Public Service Commission should do within its ambit, a conception which is based on the work which Public Service Commissions do in the dominions. I will then deal with the work it actually does within its ambit.

11. The business of a Government is to govern. Its servants are not strictly part of the business of Government: they are merely the instruments by which government is carried out. A well organised Government like a well organised business delegates to an agent or subordinate body the task of selecting efficient instruments to do its work and of regulating the concerns of its domestic establishment in order to set itself free for the far more important problems of administration and business on which it is engaged. If it fails to obtain good instruments by this method, it alters the machinery by which the instruments are obtained. It does not take the machinery into its own hands. This however is not the only reason why well organised Governments establish public service commissions. Governments are concerned with politics and policies and it inevitably happens that as soon as Governments take a direct part in recruiting their services, the recruitment comes to be governed not by a consideration of the method in which the best recruits may be obtained but of the method which best conforms to the political requirements of the hour. The introduction of politics into recruitment for the public services is as fatal to good recruitment as the introduction of

uncontrolled nepotism into a business concern is fatal to the successful conduct of a business.

12. I do not go so far as to say that Government should necessarily divest itself of all power in the matter. Political questions should seldom arise in connection with service matters but they do arise in India at any rate. For instance, on political grounds the Government of India sometimes have occasion to direct that members of a certain community should be preferred to members of another community or to direct that the recruits should be members of a certain nationality. On such matters, if need be, they should issue definite orders to their recruiting agent. With the day-to-day business of recruitment they should have nothing to do.

13. Financial considerations also arise and of course on all the major issues of finance the Government must have a decisive voice: and must be free to accept or reject the recommendations of the Commission, but on such matters the financial authorities should be predisposed to accept the views of the Commission and not reject them without full consideration. The Commission are seized of one side of the question, namely, whether a certain expenditure is necessary in the interest of the efficient recruitment or content of the public services, while the Financial authorities are seized of the state of the National Finances. A wise financier does not readily reject an expenditure which he is assured on responsible authority is necessary any more than a business manager refuses to purchase a machine if he is assured that it is necessary for the successful working of his plant.

14. Within these limitations Government throughout the Empire have set up Public Service Commissions which exercise almost independent powers and the reasons for their independence are twofold. First a public service commission is an extremely expensive body (the budget of the Indian Public Service Commission is Rs. 4,06,000 a year). If a householder engages a cook at a high salary to cook his meals, it is a mistake equally detrimental to his purse and his digestion to cook them himself or to interfere in the culinary operations of his servants. He lays down his gastronomic policy and leaves it at that. Secondly, a Public Service Commission acquires a fund of knowledge and experience of service matters which neither the Government nor any one else possesses. The Commission may be wrong in its decisions but there is no one else of whom it may be said that they are more likely to be right. In other words in their own field their authority is as absolute as that of the Education Department, or the Finance Department or any other Department of the Government of India, not because they are any more incapable of making mistakes than these departments but because the last word must rest with some one and that some one should be the body which by experience and knowledge is better qualified than any other body to express an opinion.

15. What then should be the powers which a Public Service Commission should possess?

#### A.—RECRUITMENT.

Within this sphere:—

(a) The Commission should be the absolute authority for determining the method of recruitment, whether by competitive examination or selection or partly by competitive examination and partly by selection.

This power the Public Service Commission in India do not possess. I maintain that they should possess it because they are the only body in India who have a real opportunity of watching the working of the two systems.

(b) Where recruitment is by competitive examination the Commission should be in a position to decide what preliminary qualifications (e.g. a degree) or the attainment of a specified age, a candidate should possess in order to be admitted to the examination.

This power the Commission do not possess: and I maintain that they should possess it.

The difficulties on this point have not been serious. In one case, however, a Government Department refused without assigning reasons to accept a clause as to qualifications which in my opinion was clearly necessary and which every other Department had accepted without question. In another case the Commission are compelled to examine a number of candidates who, owing to the low educational qualification which has been accepted contrary to the Commission's advice, have not the remotest chance of success.

(c) They ought to be able in cases of competitive examination to determine in what subjects a candidate shall be examined.

The Commission do not possess this power and should possess it, if for no other reason because they are alone in possession of the materials on which a judgment can be formed.

In a recent case which is not finally decided the Government of India objected to a syllabus which the Commission had unanimously adopted after prolonged consideration. The Commission formed their views after consulting every one in India whose opinion is worthy of consideration, after considering the experience they had derived from interviewing hundreds of candidates and after considering carefully the results for the past six years of the examination the syllabus of which they proposed to modify. It is not known on what basis the Government of India formed their views. They were certainly not in possession of the materials which were before the Commission.

(d) The Commission should have control of the organisation of examinations.

This they do not possess. The multiplicity of examinations in India is a curse: and the unfortunate Indian graduate who aspires to enter the public service is apt to spend a very valuable year of his life in wandering from examination to examination and cramming the varying syllabus of each.

The case for some amalgamation of examinations is overwhelming. That project is being hindered and may be prevented in two cases at present, because, as I understand, the Departments concerned are not in agreement on the subject.

(e) Where recruitment is made by selection, the Commission should determine the qualifications of candidates and have an absolutely free hand in selecting them.

The Commission are liable to be overridden in their determination of qualifications and to be subject to pressure in the task of selection.

I have two cases of this latter class in mind. In one the Government have ordered the Commission, as they are entitled to do, to appoint a candidate of a particular community. They have nominated a candidate of that community. As the community consists of several million people the Commission have suggested that the appointment should be advertised. To this the Government object asserting that this man whose education is of a low standard is the best possible candidate and that no other candidate from these millions could possibly have a chance against him.

In the other a Government has expressed a strong preference for A against B whereas the Commission are inclined to prefer B to A.

In each of these cases the Commission have in fact the last word: but they only give effect to their view at the cost of great friction which must necessarily have its reaction on the general work of the Commission. The opportunities for friction should be removed.

(f) *Recruitment by promotion.*—In some Commissions no promotion can be made without the concurrence of the Commission. I do not think the Commission should exercise this power. I think the powers of the Commission should be based on knowledge and they do not know so well as the departmental authorities as between several candidates who is fit for promotion.

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On the other hand I think abuses attend unsupervised promotion. I have seen cases in which there was much reason to think that the claims of an officer to promotion had been overlooked because he was not in close touch with the officer who dealt with promotions.

In a certain class of case promotion from an inferior service to a superior is almost invariably given to old and (I am afraid) rather ineffective men in preference to their able juniors. Of course the juniors are not fit for promotion but because the promotion of juniors damages the prospects of officers who are already in the superior service.

Promotion is often given also not because the officer is fit for promotion but as a compliment shortly before his retirement. I have been dealing recently with the proposed promotion of an officer of 59 years of age, with regard to whom it is obvious that his powers have been failing rapidly for the last three years.

Practices of this kind are detrimental to the Public Service. The Commission find it very difficult to stop them under the existing rule because they can only object to a promotion if they can certify that the character and ability of the officer is so good to promote are not sufficient. This is a very strong step to take. They have no power to consider any candidates for promotion except those nominated; and if only one is nominated they can only nominate him.

It is very difficult to suggest a remedy. I am inclined to think the best remedy would be to establish promotion committees on which a member of the Public Service Commission should be entitled to sit.

I am also disposed to think it would be useful to make a rule that an officer should not be promoted from an inferior to a superior service within five years of the retirement age (55) without the approval of the Public Service Commission.

#### B.—DISCIPLINARY POWERS.

16. It is a matter for argument how far it is in the interests of the public service to set up a Court of Appeal against a departmental decision to punish an officer for incompetence or misconduct. No such formal system exists in England and there is a grave risk that the system may result in the retention in the public service of persons who do not render any valuable service owing to incompetence or inefficiency. That question, however, does not need discussion in India because the tradition of an appeal is so deeply rooted in the service traditions of India that it would be impossible to upset it.

If there is to be such a Court, I think the Court should be, as in fact it is, the Public Service Commission. The Commission have no reason to complain of any intrusion on their functions in this respect inasmuch as a convention has been established that their recommendations in disciplinary cases should be accepted.

I believe that the disciplinary powers of the Public Service Commission are regarded with some suspicion as facilitating the retention in the service of the guilty or incompetent. I think the Commission should be careful not to encourage that suspicion. In my view where a department proposes to inflict punishment on an officer the function of the Commission is to ascertain first that the officer has had an adequate opportunity of defending himself, secondly, that the decision of the Department is uncoloured by bias, thirdly, that the finding of the Department is a finding at which a reasonable man can arrive, and fourthly, that the punishment is proportionate to the offence and not disproportionate to punishments inflicted on other officers for similar offences.

I should be unwilling to overrule a finding of a Department merely on the ground that on the materials before me I should not come to that finding myself. Again I base my opinion on the view that if the Commission is to exercise special power it should possess special knowledge. I do not think

a Commission which has not heard the evidence and has nothing but papers before it is in so strong a position to form a correct view as the Departmental officer who has. In the same way a Court of Appeal hesitates to overrule a jury on a finding of fact. I think some further definition of the exact scope of the Commission's jurisdiction might be desirable.

The main difficulty of the Public Service Commission in disciplinary cases is due to the fact that the officers who are charged with the duty of making the primary inquiry into disciplinary matters are often inexperienced in the conduct of inquiries. In many cases the officer holding the inquiry has also been so closely connected with the events leading up to the inquiry that the accused has no confidence in his impartiality. I can mention several cases illustrating these difficulties. The Public Service Commission consequently fail to obtain the proper materials for arriving at a decision. I think the remedy for this state of affairs is that in certain circumstances the Public Service Commission should have power to depute a member to hold an inquiry himself whether that inquiry be the primary inquiry or a subsequent inquiry.

In particular it seems desirable to make it clear that the duties of the Commission in disciplinary cases are very different from those of a Court of Law. The Commission have many cases before them in which irregularities of procedure more or less serious have been committed by the officers who have exercised disciplinary powers. Those irregularities might be of such a character that a Court of Law might come to the conclusion that they afforded the basis of an action for wrongful dismissal. In my view the Commission should not be concerned with that question. Their duty is to ascertain whether in their opinion the disciplinary action it is proposed to take is justified and whether apart from technicalities of procedure the offender's case has received fair consideration. If they are of opinion that the disciplinary action is justified, it is their duty to report to the Government of India to that effect and to report at the same time the irregularities which have occurred. It is for the Government to take action on that report, and, if necessary, to take legal advice as to the effect of the irregularities; and in doing so no Government should be governed solely by legal considerations. I have seen not one but many cases in which my advice as a legal adviser would be that dismissal might involve an employer in an action for wrongful dismissal or libel, and my advice as an administrator would be that it was the imperative duty of the employer in the public interest to carry the dismissal into effect, whatever the ultimate legal consequences might be.

17. *Consideration of Grievances.*—The Lee Commission expressed the hope that the Public Service Commission would become in course of time the recognised authority in India on all service questions. They have little chance of achieving this position unless they become acquainted with service grievances. It is essential for them to know where the shoe pinches. The recognised procedure for calling attention to grievances in India is by presentation of a memorial. At present such memorials may or may not be referred to the Commission, and I have no information as to the extent to which they are so referred.

I think two reforms are needed. First, the presentation of memorials is governed by an elaborate set of rules, failure to comply with which involves the rejection of the memorial. I think members of the Services should have free and less formal access to the Commission for the purpose of advocating service reforms or the removal of grievances. Secondly, I think all memorials should be referred to the Commission for consideration and advice.

I am aware that this would impose a considerable burden of work on the Commission and the consideration of many cases which had no substantial foundation. Many representations could be dismissed at sight with only a formal acknowledgment.

I believe, however, that this is the only method by which the Public Service Commission can obtain a complete insight into service problems and the only method which will satisfy members of the Public Services that their complaints will receive full consideration.

18. *Conditions of Service.*—The Governor-General in Council may refer to the Public Service Commission any question connected with the pay, allowances, pensions, provident or family pension funds, leave rules or conditions of service generally. Under this provision the Public Service Commission have no power of initiative: It is impossible for any one who has studied even superficially the morass of regulations in which the public servant in India is bogged to doubt that there is a supreme need in India for some unifying body fully acquainted with all service problems to introduce order and coherence into the system. It is hardly too much to say that at present no civil servant understands or knows the rules which govern either himself or other officers. The interpretation of service rules which should be few and simple has to be relegated to a body of accounting experts at great public expense. The authority who engages an officer and whose duty it is to explain to him the terms of his appointment is seldom or never in a position to do so, because the terms are embodied in rules which no one but an expert can understand. A striking instance of this came to my notice this winter. A very distinguished expert Committee was sent out from England to India under terms which were no doubt intended to provide properly for their financial interests. When they arrived in India the authorities relying on a rule which was never intended to apply placed an interpretation on the financial arrangements which was entirely different from that which the members of the Committee had assumed. A controversy followed which could not be settled by the date when their labours terminated; and a member of the Committee found himself compelled to borrow from a private friend the money necessary to enable him to return to England.

Service problems require whole-hearted and not half-hearted consideration. They should not be left to officers who are immersed in other duties and are unable to review any service problem as a whole. Still less should they be left to financial experts who derive credit from disallowing legitimate claims.

I consider that all questions relating to service matters should be referred to the Public Service Commission as a matter of course and that the Commission should have independent power to consider service problems and make recommendations.

I should frame their powers rather more widely than they are framed at present. In particular I should include among the matters on which they should be consulted the cadre of the Service. Elaborate rules exist in India for calculating the cadre of the Service and the method of recruitment. I think that it is common ground that some of these rules are out of date and result in erroneous calculations. A faulty basis of recruitment gives rise to serious evils since it occasions blocks in promotion or undue rapidity of promotion. It is very difficult for a busy officer deeply concerned with the affairs of the moment to realise that what he is doing in 1928 may be the source of very serious difficulty to his successor in 1948.

19. Before passing from this subject I would like to revert again to the multiplicity and intricacy of the rules which prevail in India and which I regard as most injurious to the public service. Complaints are often made of the lack of intelligence shown by the lower ranks of the service and by their slavish and pedantic adherence to rules. I think the fault lies with the rule-maker rather than with those who have to observe the rules. In England I have seen a highly intelligent body of civil servants possessed of sound judgment and a well-developed sense of responsibility reduced to a collection of helpless automata, by an officer, who thought a rule should be

made on every conceivable subject. In India the mischief is far more widespread. Public servants are discouraged from looking at the substantial merits of a case and merely search for a rule which covers it. When they have found it they apply it quite regardless of the question whether it was ever meant to apply. If they cannot find it they are helpless. An offender who has done something which is manifestly improper will reply that there is no rule against it and his reply in a rule-ridden land will carry conviction. The mischief is due partly to that indisposition to delegate powers which constitutes one of the recognised and fatal diseases to which every civil service is liable, partly to a failure to understand what matters can properly be made the subject of rule and what should be the subject of discretion; and partly to an inability to frame or draft rules. This inability is often very surprising. Some of the most important rules are admittedly quite wrong and could only have been drafted by some one who was unacquainted with the facts; others are so ambiguous that they become the sport of every interpreter.

20. I have in the foregoing paragraphs shown that in some matters I think the Commission should have final authority and that in others (mainly matters of politics and finance) I think the Government of India should possess a determining voice. It is, of course, a matter of great difficulty to define in any written rules what matters belong to each class. I do not in fact think such a delimitation is really possible or necessary. Both the Public Service Commission and the Government of India possess members who are well acquainted with administrative matters. The Public Service Commission are quite capable of understanding that there are certain subjects on which the Government of India is entitled to a veto. If once it is understood that the Public Service Commission is an expert body and not a subordinate department of the Government of India, that Government is quite able to understand that on questions not vitally affecting any principle of policy or substantially affecting finance the opinion of the Public Service Commission should be accepted.

21. With this mutual understanding I do not see any reason why questions of difficulty should arise. I, of course, assume that in all cases the Public Service Commission, before arriving at a decision should freely consult the Government of India, and ascertain, and, as far as possible, defer to their views.

I think also occasions for friction would be removed if the Government of India, before rejecting the advice of the Public Service Commission, provided machinery whereby that Commission could orally explain their position. The practice of writing carefully guarded official letters, when an informal discussion would clear the situation, is prolific of misunderstanding.

I think, however, machinery should be provided to deal with a deadlock and on the analogy of procedure which is adopted in some of the dominions I would propose that if the Government of India is unable to accept the advice of the Public Service Commission on service questions it should be under an obligation to publish in the Gazette that advice together with their reasons for disallowing it.

22. I should not be advocating a change if the present system, though unsound in theory, was working satisfactorily in practice. It is with great reluctance that I refer to this aspect of the matter; and I desire to make it clear that the difficulties and obstacles which the Commission incur in nearly every part of their work are not due to any Department and still less to any individual but to a failure to understand or give effect to the changes in administrative methods which were necessarily involved by the creation of a Commission recruited at great expense to be experts in questions relating to the public services. It is impossible to realise how far the conception of a Public Service Commission is being defeated without studying actual examples of the difficulties which occur. I have collected and



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can produce a number of examples gathered from a very short experience illustrating the obstacles the Commission encounters. I do not think that any one can study them without realising that the present system requires radical alteration and is dilatory, extravagant and prejudicial to the proper administration of service questions.

23. Undoubtedly one of the main sources of difficulty is delay which while it paralyses and embarrasses the work of the Commission in every way is not the fault of the Government. It is well known that during large parts of the year the preoccupation of the Government with the affairs of the Legislative Assembly renders it impossible for them to pay attention to current business. The Public Service Commission has to work to time-tables, the disregard of which involves very serious consequences. In nearly every department of their recruitment this work is hampered by the impossibility of getting Government sanction sometimes at as early a date as is desirable, at other times till it is too late to make proper arrangements at all. The difficulties would not be so grievous if any important amendment arose out of these delays. What in fact generally happens is that after waiting for many months the proposals of the Commission are sanctioned subject to trivial amendments which are not of any consequence. On some amendments the Commission are often not consulted at all: and nothing is so dangerous as to alter a carefully worded draft without ascertaining the opinion of the draftsman. I cannot remember a single case in which this process of revision has not resulted in definite deterioration. In one case a clause was added which was clearly wrong and had to be altered in the succeeding year. In another fortunately the Commission were consulted as to a clause which it was intended to substitute for the clause proposed by the Commission and the Commission were able to point out in time that it contained seven errors. In a third case in which the delay has involved the postponement of an examination with the most serious results, the amendments made in the draft regulations for an examination in 1928 consisted first of a statement that the 1927 regulations no longer applied and secondly in the addition of a note as to the examination in 1929. Each amendment was in my view unnecessary and neither was of sufficient importance to justify the serious consequences which resulted from the delay. Cases of this kind could be multiplied almost indefinitely. One of the results of the revision (without consulting the Commission) of their carefully considered drafts is that they hesitate to propose the alteration of things which are clearly wrong from a fear that something more wrong will emerge.

24. With regard to their more constructive work it is impossible for the Commission to perform any useful function when months or even years may elapse before they can obtain any answer to a proposal they have made after considering a question in all its bearings. The Commission were appalled at the ignorance of elementary facts of geography and history displayed by candidates for a certain examination and they suggested nearly a year ago that there should be an elementary examination in those subjects. They can get no answer.

Fifteen months ago the Commission pointed out that the month selected for a certain examination meant that the candidates wasted ten months at a very critical period of their lives and they proposed a remedy. They can get no answer and the waste continues.

No doubt these important questions are being discussed by I know not whom. No doubt someone is criticising and someone objecting. The Commission have no opportunity of meeting the criticisms or objections or of elaborating the grounds which led them to make their proposals.

I should also point out that the effect of a delay is not confined to the case in which it occurs. The Commission correspond with many different

Departments; and the fact that it is impossible to obtain a decision on a particular proposal may mean that half a dozen other proposals cannot be considered.

25. There is one other matter to which I should allude. The Lee Commission desired that "the Public Service Commission should become the recognised expert authority on all service questions." The following will show how far an attempt is being made to give effect to that desire.

On 30th June, 1927, the Government of India issued a circular letter to all Local Governments stating that in connection with the constitution of new Provincial Services which were to take the place of All-India Services operating in the transferred field of administration several Local Governments were experiencing difficulty in the matter of fixing rates of pay, standards of qualifications, methods of recruitment and conditions of service, etc. They, therefore, proposed to hold a conference on the subject with the representatives of the provinces.

The Public Service Commission were not informed of this decision till the 9th of November. On that date the Government of India issued a further circular inviting three of the Departments of the Government of India to send representatives to the Conference. A copy of that circular was sent to the Public Service Commission for information. The Public Service Commission were not invited to send a representative.

A very few days before the Conference was to take place a telephone message was received from the Government of India saying that the Public Service Commission might possibly be interested in the question and would they like to attend. Eventually it was arranged that 3 representatives of the Commission would be available if the Government of India desired their presence.

The first meeting of the Conference took place on the 16th of November. The three representatives in question were not invited to attend that meeting which set up four committees to consider a very long agenda, the adequate consideration of which would have absorbed months. The committees met on the following day and reported on the evening of that day or on the morning of the next.

The second meeting of the Conference was held on the 18th of November, 1927, to consider the reports of the four committees. Three members of the Public Service Commission were invited to be present. As the two committees with which the Public Service Commission were chiefly concerned had already passed resolutions excluding the Public Service Commission from any interest in the affairs which they were discussing and as the representatives of the Public Service Commission had had no opportunity of ascertaining on what grounds they had arrived at this conclusion or of explaining to Ministers and others, most of whom were entirely unfamiliar with the work of the Public Service Commission what assistance that Commission might render in the provincial field, it was futile for the representatives of the Commission to make any observations at this final conference.

It is hardly necessary to observe that the subjects which the Conference had to consider were absolutely vital to the future organisation of the Indian Public Services and they were, of course, the questions which must be of supreme interest to any Public Service Commission. Substantially, the Public Service Commission were excluded from all part in the consideration of these important matters. I regard some of the decisions which were reached at the Conference as disastrous to the proper organisation of the services, but the Commission had no opportunity of representing their views.

Fortunately, it may be said that the Agenda of the Conference was issued at so late a date that the representatives of the various provinces had no adequate time to consider it. Consequently, the resolutions of the Conference were not binding upon the Governments affected.

## THE INDIAN CIVIL SERVICE.

26. The Indian Civil Service consist of a body of men whose sanctioned strength is 1,239 and whose actual strength is about 1,119. Up to 1914 this body was recruited almost exclusively by a competitive examination in London open both to Indians and Englishmen so designed as to attract the best brains from the English Universities. Its supremacy in India both moral and intellectual was unquestioned and unquestionable. The body was incomparable, if for no other reason, because there was nothing with which to compare it. Its superiority was unquestioned because it had gained its position by a severe open competition and there was and is no other criterion by which superiority could be judged. By virtue of its position it obtained powers, privileges and emoluments which appertained to no other body in India. Like all other powerful bodies, it developed a strong corporate sense and corporate traditions. As a select body it jealously guarded admission to its ranks by methods other than those by which the main body was recruited. Amidst infinite individual diversities it developed a type which is as recognisable in India as certain well marked types are recognisable in England. Those who were most envious or critical of its special position were unable to deny the basis of superiority on which that position was founded.

27. Attempts which were made mainly in the interest of Indianisation to introduce some other mode of recruitment merely served to demonstrate the superiority of the Indian Civil Servant as recruited through the avenue of the London Examination. As long ago as 1861 legislation was passed (The Indian Civil Service Act, 1861) which made it possible to fill the offices held by Indian Civil Servants in other ways and though that legislation was strengthened by the Indian Civil Service Act, 1870, it was not till 1879 after the lapse of eighteen years that rules were made for the appointment of Indians nominated by Local Governments to not more than one-fifth of the posts to which Indian Civil Servants were recruited in any year. Subsequently regulations provided that the persons so appointed should be young men of good family and social position. The scheme proved a complete failure. The persons so appointed were called Statutory Civilians and sixty-nine in all were appointed. In spite of their good family and social position they did not possess the necessary educational qualifications. There may have been a few among them who proved a success: but I believe after reading the evidence on the subject that there is an almost complete unanimity of testimony that the majority were unserviceable. The last of them survived in service till 1913 and it was I think he who wrote their epitaph in that year in the following words, "somehow a curse rested upon the wretched thing from the very beginning." I revive their memory in order to point a moral. The Government of India had the whole of India to choose from under conditions ideal for the selection of suitable candidates. They failed to find them; and I think the lesson to be learnt is not that suitable candidates did not exist but that an attempt to find suitable candidates by selection, more especially if the selection was based on good family and social position, was and always will be foredoomed to failure.

28. Little more success attended the attempt initiated in 1892 on the abandonment of the Statutory Civilian Scheme to substitute the scheme of Listed Posts whereby selected Indians in the Indian Provincial Services were appointed to hold posts ordinarily held by members of the Indian Civil Service. The number of posts allotted to such officers was up to 1924 limited to a maximum of 16 per cent. of the total cadre. This maximum was never attained and the number of posts so held amounted in 1925 to 89. In practice the system has developed in most provinces into one whereby elderly and deserving members of the Provincial Service are shortly before retirement mainly on grounds of seniority appointed to posts ordinarily held by officers of the

Indian Civil Service. The practice is agreeable to the Provincial Civil Service but it does not represent a good system of staffing a service which requires great vigour and initiative. The officers promoted in this way do not possess the status of members of the Indian Civil Service and I do not think it would be maintained that as a class they are having regard to the date of their promotion comparable with them.

29. On 1st April, 1913, there were 1,371 Indian Civil Servants of whom 1,305 were Europeans and 66 were Indians or Anglo-Indians. Five years previously there were 59. Between 1900 and about 1913 35 Indians entered the I.C.S. to 651 Europeans. The war and the political developments arising out of the war have completely altered the situation.

30. Since 1914 which may be regarded as the last year of normal recruitment, the following eight avenues of entrance to the Indian Civil Service have existed at various times:—

1. From 1915 to the present time the open competition in London open both to Englishmen and Indians.
2. In 1915, 1916 and 1917 appointments of Indians under the Indian Civil Service (Temporary Provisions) Act, 1915. These were in fact Indians who had been unsuccessful at the open competition in London.
3. 1919-1923 inclusive. Appointment of persons who had had war service by nomination under the Act of 1915 after a qualifying examination.
4. In 1921 and 1923 appointments of Indians by nomination in pursuance of the policy of associating Indians in increasing numbers with the government of the country.
5. In 1923 appointment of surplus officers of the Indian Army.
6. In 1922 and subsequent years appointment of persons domiciled in India on the result of a competitive examination held in India.
7. Since 1922 appointments based on the ground that the candidate belonged to a particular religion, Muslim, Sikh or the like.
8. Appointments based on the fact that a candidate belonged to a particular province of India, i.e. Burma.

31. The period may be divided roughly into two periods, 1915-1922 and 1923 to 1928.

In the period 1915-1922, the open competition in London practically collapsed. In 1914 the competition provided 47 appointments—40 English and 7 Indians. In the next eight years only 26 Englishmen were appointed; and in the 5 years 1916-1921 only 9 Englishmen were appointed. In the eight years 49 Indians were appointed by this method. The number of candidates fell from 183 in 1914 to 21 in 1919.

32. No steps were taken to make up the deficiency in English recruits till 1919 and the first of them arrived in India in October, 1919, nearly a year after the Armistice. These were recruits who had served in the war appointed after a qualifying examination. A perusal of their record shows that at the commencement of their war service they were mostly persons of great educational promise but their education was interrupted at one stage or another by the war. They entered the service at an advanced age as compared with the ordinary recruit but they were all under 30 at the date of entry. The number so recruited was 138 of whom 2 were Indians.

33. 45 Indians were appointed in 1921 and 1923 in pursuance of the policy mentioned in paragraph 4 above.

Fourteen English officers surplus to the Indian Army were appointed in 1923.

In 1922 the Allahabad open competition for the Indian Civil Service was started. It provided 9 Indians. In the same year the practice of appointing persons to the Indian Civil Service on religious grounds was commenced and four Indians were so appointed.

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34. The summarised figures for 1915-1922 are, therefore, as follows :—

|                             |     |
|-----------------------------|-----|
| Total Appointments .. .. .  | 291 |
| By Open Competition .. .. . | 84  |
| By Nomination .. .. .       | 207 |
| English .. .. .             | 176 |
| Indian .. .. .              | 115 |

I have included in these figures 27 appointments by nomination which were not actually made till 1923, because being made under the Temporary Provisions Act of 1915, they properly belong to the war period. I should mention that these figures are based on my own researches and may contain trifling inaccuracies.

35. From 1922 onwards the London open competition gradually righted itself. The power to appoint by nomination under the Temporary Provisions Act, disappeared in 1924 and was not exercised after 1923, but a new complication was introduced in 1922 by the introduction in that year of a competitive examination for the Indian Civil Service confined to domiciled Indians and held in India originally at Allahabad but now at Delhi.

With this examination vanished the old practice of appointing candidates to the Indian Civil Service whether European or Indian strictly in order of merit, since it is impossible to arrange in one order of merit two sets of candidates examined in different subjects, at different places and (now) by different examiners.

36. Another consideration destroyed the possibility of making appointments in strict order of merit. The percentage of recruitment of Indians for the Indian Civil Service was fixed in 1920 at 33 rising by  $1\frac{1}{2}$  per cent. till 48 per cent. was reached in the year 1930. That proportion was altered by the Lee Commission whose proposals are contained in paragraph 109 (XIII) of page 65 of their report. They contemplate that of the posts in the civil service 40 per cent. should be recruited from Europeans, 40 per cent. from Indians and 20 per cent. by the promotion of Indians from the provincial service. It is obvious that it is only by the merest accident that an order of merit could conform with these percentages and that the necessity of adhering to a percentage based on nationality must almost invariably mean that some of the candidates who would succeed on order of merit are excluded by their nationality whether that be Indian or European.

37. A third consideration has involved a still more extreme departure from the order of merit. Englishmen compete only in London. Indians compete both in London and in India. The London competition is in practice closed to all Indians who cannot afford the heavy expense of a journey to England; it is specially favourable to those who can incur the still heavier expense of an English education. Consequently, the great majority of Indian candidates have to compete in India or not at all; the small minority can compete in London.

38. It is necessary, however, in London to complete the quota of English recruits and it would be contrary to justice to exclude from the I.C.S. any Indian who beats in the London Examination the English recruit who stand lowest on the English quota. The result is that the minority of Indians who can compete in London have the first call on the Indian vacancies and the majority of Indians who can only compete in India have to scramble for the residue. This residue is still further diminished by another consideration. One-third of the Indian places in the Indian Civil Service are reserved for minority communities (Muslims, Sikhs, etc.). If, for instance, there are 30 Indian places, it is ascertained how many minority community members have got in by direct order of merit. If that number is less than ten the deficiency is made up by nominating outside the direct order of merit members of those communities.

Consequently, the Indian in India after finding that a large proportion of the Indian places has been monopolised by the minority of Indians who can compete in London finds that the residue available for competition in India, is still further reduced by the provision for appointment on religious grounds.

It may thus easily happen in any year that there are no vacancies at all available for competition in India. In no year have there been more than nine vacancies so available and in one year the number fell to three. Thus in London there are many places for few candidates and in India few places for many candidates.

39. In practice Indians have discovered that it is much easier to get into the I.C.S. in London, than in India; and a practice has sprung up whereby a candidate who has failed in India goes to London if he can raise the necessary funds and succeeds there. In the London examination of 1927 I think no less than ten candidates were successful who had previously failed in India. One candidate was successful whom after careful consideration the Public Service Commission had rejected in India as being too bad even for a nomination as member of a minority community.

40. The sense of injustice thereby created must be very great. A is fifth in the Indian competition when there are only four places to be awarded. He fails and must seek another career. B is perhaps fortieth in the same competition. He is able to go to London and gets into the I.C.S. A and B may both come from the same province and A having failed may enter the provincial service. He will then serve under B who is his inferior in every respect. Cases of this kind are not imaginary. They are common and becoming increasingly common.

41. In order to remedy these difficulties it has been suggested that the London competition should be closed to Indians and that all Indians should compete in India. I think such a proposal, if accepted without modifications, would have rather unfortunate results. Indians have always been able to compete at the London Examination, and the withdrawal of the privilege would be resented. It would also render impossible any comparison of the merits of European and Indian recruits. Apart from this, however, I should greatly deprecate any hindrance to the entry into the I.C.S. of Indians who have been educated at English Universities and possibly at English public schools. I need not enter into the debatable question whether it is desirable that an Indian should obtain his education in England, and, if so, from what age. The fact is that there are many Indians educated in England and they afford some of the best possible material for the I.C.S., material I should be sorry to lose. Few of them could afford to come to India on the speculative possibility of success in the Indian examination in which their English education would be rather a disadvantage than an advantage and there are special difficulties attaching to their attendance at the Indian Examination.

42. It is a case where there are obvious disadvantages attaching to every solution and it is necessary to choose the least disadvantageous. On the whole I am inclined to think that the least objectionable course would be as follows :—

1. Close the London examination to Indian candidates.
2. Invite applications in London for entry to the I.C.S. from Indian candidates who are being educated in England.
3. Bring applicants before a selection committee in London to select a small number of candidates who appear likely to be successful.
4. Send those selected candidates to compete at an Indian Examination, giving them a pecuniary allowance to cover the whole or part of the expense of their journey to India.
5. If the Indian examination appeared to be unfavourable to these candidates, give them an option of taking special papers in some subjects.

If objection is taken to (4) on financial grounds, I would point out that the money which is spent under (4) could be saved by abolishing or curtailing for English educated candidates the period of probation in England.

43. It seems clear that the present system must break down before long owing to the intrinsic unfairness and discontent it causes. It is deeply

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injurious to the prestige of the Indian Civil Service because it can no longer be said even approximately that the best Indians get into the Indian Civil Service : and as soon as that fact is generally realised its right to be regarded (so far as the Indian recruitment is concerned) as the premier service will vanish. If the successful Indian competitor in London is often inferior to the unsuccessful Indian competitor in India, the question arises whether the successful competitor in India represents the best material which India can produce. At first sight one would expect that this would be so, since to the Indian the Indian Civil Service represents the best career which is available to him. In order to explain why it is not necessarily so, it is necessary to examine the problem which confronts the Indian graduate when he has taken his degree. The annual output of Indian graduates is enormous and a far greater proportion of them than in England look to Government service for a career. In England the Home Civil Service examination is the chief service which is staffed by graduates and the graduate looks to that examination as his means of entry. Other branches of the civil service are recruited at examinations for which graduates do not compete. Government servants are, therefore, divided fairly sharply into an upper division of graduates and a lower division of non-graduates. The provincial services in England are usually not staffed by examination at all.

44. In India almost all the services (at any rate those to which the entry is by examination) are staffed by graduates, that is to say, by one class of persons who differ in their degree of education but do not differ generically. The graduate who wishes to enter Government service is confronted with a bewildering variety of alternatives. He can enter for the All-India examinations such as the I.C.S., the Indian Audit and Accounts, the Imperial Police, the Forest Service and the Railway Service, each of which have their separate examination, or he can enter for the Provincial Services, many of which are recruited by examination, or he may enter for the service of the Government of India Ministerial Establishment, which is also recruited by examination. He has his choice between these alternatives, but, if he cannot get into the service of his choice, he is bent on getting into the service somehow ; and it is not uncommon to find a candidate who has tried for the Indian Civil Service and not obtained a place competing for a minor clerical post in the Government of India Secretariat.

45. Examinations in India are, however, very expensive. There is a substantial entrance fee, but the main part of the expense is due to the fact that the candidate has to travel once and sometimes twice to an examination centre which may be a thousand miles away and pay for his maintenance during the progress of the examination. The expenses are greater for an Imperial examination than for a provincial examination since the candidate has to travel further.

The candidate for Government service is generally a poor man and for financial (if for no other) reasons he can not afford to go in for all these examinations. Further, he is unable to study for them all because though they do not vary very greatly in their syllabus, they do vary and each examination requires some special preparation. Lastly, he cannot take all the examinations because their dates sometimes clash.

46. It is therefore necessary to make a choice. To take an instance, a graduate of the United Provinces knows by his academic record that he is about the best man of his year in the United Provinces, and is fairly sure of being successful in the examination for the United Provinces Provincial Service. The examination and the attendance at the examination is comparatively cheap. The range of subjects he has to offer is comparatively small. If he is appointed, he begins earning money at once and he knows that his career will be in his own province and among his own people.

The alternative is to enter for the I.C.S. Here he has to compete against candidates drawn from the

whole of India. He is unable to compare himself with them or gauge his chances of success. The vacancies are only four or five. He has to pay a large entrance fee and stop for about three weeks in Delhi. He has to take up subjects for the examination with which he was perhaps previously unfamiliar. If he is successful, he has to go to England for two years on an allowance only sufficient to cover his expenses. At the end of that time he may find himself in a province far removed from his own people, the language and associations of which are alien to him. The prize, if he obtains it, is very substantial, but the stakes he has put down are very large and the odds against him are very heavy.

It is little wonder that in these circumstances he prefers the comparatively safe course of competing for the Provincial Service to the hazardous course of competing for the Indian Civil Service. I have been assured from many quarters that the entrants to the provincial services are often superior to those for the Indian Civil Service, and I know of several cases in which a candidate who has been unsuccessful for the provincial services has been successful for the I.C.S. But the competition is not only between the I.C.S. and the provincial services. It is also between the Imperial Services themselves. The Indian Audit and Accounts examination probably attracts as good a class of candidates as the I.C.S., and possibly better.

47. The main reasons for this state of affairs is, first, the very small number of places awarded on the result of the I.C.S. examination and, secondly, the multiplicity of examinations. The latter is a very distinct evil in itself. It is educationally most undesirable that an Indian graduate who has just emerged from his degree examination should spend a year or more cramming for and taking a series of examinations at all of which he may be unsuccessful.

48. The remedy is an extensive amalgamation of examinations. I should like to see an annual examination conducted at the provincial centres throughout India at which Indians could compete :—

1. For the Indian Civil Service.
2. For the Indian Audit and Accounts.
3. For their own provincial service.

A partial amalgamation was effected this year between the Indian Civil Service and the United Provinces Provincial Service. In my opinion it was a great success and highly beneficial to both services ; it would have been a still greater success if the amalgamation had been more complete. The Public Service Commission, however, have no power to extend the system, because it can only be adopted if the Local Government agree, and each Local Government has a right, even if it agrees, to insist on its own special conditions. Special conditions appropriate to particular provinces there must of course be ; there is no difficulty in incorporating some special conditions into the system, but there are other special conditions which would make the system unworkable. I do not expand this proposal and am of course aware that special difficulties attach to it which must be faced.

49. The effects of the happenings of 1915 to 1928 will not reveal themselves fully till about 1935, when the recruits of 1915 to 1928 begin to occupy positions of major importance in the Indian Civil Service. By 1945 practically all the pre-war recruits will have vanished and for a period of 15 years all the senior and influential posts will be held by the succeeding generations. It is clear that the constitution of the Indian Civil Service will then be entirely different from what it was in the past. The homogeneity based on common traditions and a common training will have vanished. The inroads made on the principle of open competition will be enormous and even among those who entered by open competition it will be impossible to say that they represent the best material available. I am far from saying that the members of the Indian Civil Service may not be as good men as they were before the war. I have heard it frequently said that the war period 1915-1922 introduced into the I.C.S. much inferior



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material, but I have no means of testing the truth of that statement. What is quite clear with regard to the Indian recruit at any rate is that his position will no longer be incontestable or incomparable. There will be in every part of India, except Burma, large numbers of persons in other services, and often in inferior services, who have demonstrated their superiority to members of the I.C.S. in open competition. There will be large numbers of officers in the I.C.S. who have either never demonstrated their superiority at all or have demonstrated their distinct inferiority. In these circumstances, it will be difficult to maintain the prestige of the I.C.S. or to justify the wide gulf which separates that service from others in the matter of emoluments, privileges and conditions of service.

50. Before passing from the Indian Civil Service I desire to mention one entirely unconnected matter which has come under my observation. Unlike other Government servants the Indian Civil servant has a wide choice as to the date at which he may retire and earn a full pension. He may retire after 25 years or remain for 35 years. Put roughly in terms of age he may retire at about 50 or at about 60. Few serve the full 35 years though there appears to be for many reasons an increasing tendency to serve either the minimum or maximum time. In the English civil service the rule is that a servant may be required to retire at 60 and must retire at 65 except in very exceptional circumstances. Many officers are required to retire at 60 and in some offices it is practically the rule. The requirement involves not the slightest reflection on the efficiency or competence of the officer. It is often made merely on the ground that it is desirable to accelerate promotions. The Indian Civil Service like all other services contains officers whose efficiency is doubtful and who cannot with safety be appointed to posts of major responsibility. It also contains officers who whatever their earlier efficiency may have been, lose that efficiency as their years advance. I think it is a matter of imperative importance that machinery should exist whereby officers of this kind can be retired at an age at any rate earlier than 60, and retired without the difficulties and unpleasantness which attach to the formulation of definite charges of incompetence or misconduct. Personally, I should like the point at which the machinery should come into operation to be the point at which the officer has earned his full pension, but I think much would be gained even if the point were put a few years later. Promotion in some provinces is from time to time deplorably blocked; and I think the change I have suggested would be greatly facilitated, if it were recognised that an officer might be required to retire to relieve a block in promotion. Generally I should like to adopt the English system I have mentioned with the substitution of the ages of 55 and 60 for the ages of 60 and 65. It would of course be necessary in the adoption of any new rule to consider the vested rights of those already in the service. I am convinced, however, that the necessity of such a rule will as the years pass be increasingly revealed.

#### OTHER ALL-INDIA SERVICES.

51. The other All-India services with which the Commission have been mainly concerned are the Police Service and the Forest Service. The Engineering Service (so far as it is not provincialised) is under reconstruction so far as recruitment is concerned, and the Indian Medical (Civil) has lately been the subject of a decision with which the Public Service Commission were not concerned.

In the case both of the Police Service and the Forest Service it is very noticeable that the same phenomena occur as in the case of the Indian Civil Service, namely, that it is impossible to say that the Imperial branches of the service attract better candidates than the Provincial branches. Both the Police Service and the Forest Service suffer from a deficiency of Indian candidates. These phenomena are very

disquieting; and the solution in each case must be particular and not general. It is only after a very careful study of the facts in each case that it will be possible to find a remedy. I think that study must be undertaken by the Public Service Commission in close co-operation with the authorities most directly responsible for the Police and the Forests, respectively. Those who have an ultimate responsibility for these services have little direct knowledge and I do not think their intervention is apt to throw much light on the situation. For the present I am not prepared to propose a solution.

#### PROVINCIAL SERVICES.

52. I desire to say nothing as to these beyond what I say when dealing with methods of recruitment and local service Commissions.

#### METHODS OF RECRUITMENT.

53. There is no ideal method of recruitment for the public service and no adequate method of testing whether a system of recruitment is successful or not. The best system breaks down if the material is bad, and the results of a system do not manifest themselves fully for twenty or thirty years. Recruitment in fact must necessarily be a gamble since it is impossible with any scientific accuracy to determine whether a young man in his early twenties will prove to be a successful public servant in his forties. Whatever system is adopted failures are inevitable. Up to 1914 the Indian Civil Service was recruited probably from the best material available in the British Empire and by methods devised with infinite care. A very experienced and senior Indian Civil Servant investigated the service of 200 Indian Civil Servants with whose careers and personalities he was well acquainted. He classified them as follows:—

|                                                                                                                   |              |
|-------------------------------------------------------------------------------------------------------------------|--------------|
| Brilliant men who would have made a name anywhere . . . . .                                                       | 11 per cent. |
| Good men who would have worked up to managing big businesses, made good practices at the bar, and so on . . . . . | 52 per cent. |
| Men who would have worried and made their places but never gone far . . . . .                                     | 25 per cent. |
| Bad bargains, men whom the service would have been better without . . . . .                                       | 11 per cent. |

Such an estimate must necessarily be personal, and other observers might arrive at different conclusions. The fact that over one-third of the persons appointed were comparatively failures in my opinion shows not that the system of selection was bad, but that whatever the system and however good the material from which a choice is to be made, a considerable percentage of partial or complete failures is inevitable.

54. A system of recruitment is apt to be judged not by its successes but by its more glaring failures, and it is on this account that public opinion becomes critical of the existing system as soon as it has had time to forget the difficulties and failures of the system which preceded it. At the present time and for some years past there has been a pronounced reaction from the belief in competitive examination which is the system which has prevailed for many years.

For practical purposes the main controversy over recruitment is as to the respective advantages of recruitment by selection and recruitment by examinations. In between these alternatives lie several systems of recruitment in which both selection and examination are combined.

55. I have had an unusual opportunity of comparing the merits of selection and examination, because while I served in the Home Civil Service, which is predominantly recruited by competitive examination, the office in which I served was recruited almost entirely by selection. The general conclusion at which I arrived in England was that selection practised according to English traditions

and under English conditions produced a type of recruits in no way inferior and probably superior to that recruited by competitive examination. The impression I got was that the selection office recruited more men of educational brilliance, that the general level was not inferior to that of a Competition office but that the tail was worse. The inferiority of the tail I attribute partly to grave errors of judgment and partly to jobbery. Jobs undoubtedly do occur wherever patronage exists; but for various reasons they were not common. Consequently I came out to India with a certain bias in favour of selection as a method of recruitment in preference to competitive examinations.

56. I propose to deal first with the commonest type of recruitment, namely, the recruitment of young men generally between the ages of 19 and 24 of whom nothing is required except that they should possess either (a) an adequate general education or (b) a general education with a bias towards certain subjects of study such as science, economics or mathematics.

To class (a) belong the general executive services such as the Indian Civil Service and the provincial services. To class (b) belong such services as the Forest Service, the Audit and Accounts Service and the Railway Services in which it is important that the recruit should have attained a degree of proficiency in studies which form the foundation of his future work.

57. For practical purposes there is little difference between classes (a) and (b). The only difference is that in class (b) where recruitment is by examination, the syllabus lays emphasis on those subjects of study which are specially important.

58. My experience of Indian conditions has convinced me that whether I was right or wrong as to England, I should be entirely wrong if for this class of appointment in India I advocated appointment by selection. I think that for the class of recruitment I have mentioned the only way of getting a satisfactory result is by competitive examinations.

59. I should first like to assume a case in which the selection is absolutely honest without any suspicion of racial or communal bias and is directed solely to the end of obtaining the best man for the public service; and to compare the conditions under which the selection is carried out in England and in India.

60. In England a Selection Committee generally has a comparatively small number of candidates with whom to deal. With regard to each candidate it knows:—

- (a) His academic record at the university.
- (v) His record as to games.
- (c) His record at school.
- (d) The opinions of those who have had the best opportunities of judging of his attainments and character.

Each of these items can be weighed almost to a nicety. Everybody knows for instance what value is attached to a First class at the older Universities; what it means that a man has been captain of a school eleven; and with regard to testimonials the Selection Committee generally knows both those who have given them and those who have received them and knows what value is to be attached to the opinion of the giver. All the conditions are as favourable as they well can be to appointment by selection.

61. I have sat on many Selection Committees in India and have observed their difficulties. For the purpose of recruiting to a provincial service the conditions would probably be as follows:—

- (1) The Selection Committee (generally far too large) would consist of a number of senior officials with a minority, large or small, of senior non-officials. Few of them have had any extensive experience of selecting candidates. Many of them seldom or never in their daily lives encounter young Indian graduates: few of them are in a position to assess

the educational attainments or the intelligence of the candidates who come before them.

(2) There may be anything up to 200 candidates. It may be taken almost for granted that each of these candidates will possess a University degree from one of the many Universities in India, will have played one or more games, will be certified to possess an excellent moral character, and will present the most excellent testimonials.

(3) How then is the Selection Committee to discriminate between them? Seldom by any of the criteria mentioned in the preceding paragraphs. The standards of Indian Universities vary so infinitely between themselves and vary so much at different times and in different schools that it is seldom possible to draw any sound conclusion from a University degree. The higher distinctions of certain Indian Universities are sparingly granted and have a well recognised value. The higher distinctions of certain other Indian Universities cannot be regarded as guarantees of educational excellence. It is however very unsafe to assume that the candidate from one of the Universities of the latter class is not a good candidate.

With regard to games a conclusion can be drawn from quite exceptional excellence, which is of course rare. In the majority of cases it is impossible to draw the same conclusions as can be drawn from similar facts in England. In England most undergraduates have ample opportunities of playing all games except perhaps lawn tennis and golf. In Indian Universities the opportunities are very uneven, and the tradition in favour of games is not so pronounced. An advocate of games in England might turn a candidate down if he had never played habitually any game except lawn tennis, it would not be fair to do that in India. It is also impossible to assess the value of a statement (e.g.) that a candidate was in the hockey eleven of a particular hostel in a University, since it might well be that in that hostel only eleven people played hockey.

With regard to testimonials (except again in very exceptional cases) I do not think anyone, as regards Indian candidates, attaches or can attach the slightest value to them. The exceptional case is a particularly enthusiastic testimonial from a professor, the value of whose judgment is well known to some member of the Committee. That carries weight and is apt to carry excessive weight as against a candidate whose professor is equally well qualified to express an opinion, though his qualifications for doing so are not known to the Committee.

(4) How then does a Committee form its opinion? It attaches such weight as it can to degrees, etc. It interviews the candidate for periods varying from about ten minutes to half an hour. During this period it examines his physique, manners and general demeanour and tries to get some idea of his intelligence. The last process is generally attempted by firing questions on general knowledge at him and by asking him what English books he has read. General knowledge is a valuable acquisition, but questions asked at an interview must be selected capriciously and may put a candidate at a serious disadvantage. It is far more easily tested by a general knowledge paper. Inquiries as to what English books the candidate has read generally end in a stalemate.

(5) The tedium of the process contributes materially to the uncertainty of the result. One hundred and fifty candidates examined for twenty minutes each means fifty hours work; and since human nature is not equal to a greater strain, this means ten days interviewing for five hours a day. I do not think that at the end of such a process any member of the selection Committee can claim to have any distinct recollection of the respective merits of the candidates they have interviewed or to have judged all the candidates by the same standard.

What has probably happened is that all the Committee have probably concurred in rejecting entirely a hundred out of 150 of the candidates.

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With regard to the remaining 50 very diverse views have been entertained. These views are probably averaged. It would be a very sanguine person who felt satisfied that by this method the comparative merits (say) of A who was interviewed fifth on the first day and of B who was interviewed last on the tenth day were effectively assessed.

62. My experience, which has been chiefly confined to cases in which the number of candidates was not so large, is that the whole process is dangerous and infinitely hazardous. I think most selection Committees on which I have served have been very doubtful about the results of what they had done. They have done their best on insufficient materials. The process is I think fairly successful in weeding out the worst candidates. I do not think it is successful in selecting the best, and I think in the process of weeding some of the best candidates are apt to be weeded. Actual cases of proved errors have occurred, e.g. when a candidate selected by a selection committee for a superior service has been rejected for an inferior service, where a candidate who was selected to be admitted to an examination one year and got a very high place in that examination was not even selected in the following year to sit for the examination, where A has been preferred to B by one selection committee and about a week later another selection Committee very similarly constituted has preferred B to A.

If I were to attempt to assess roughly the importance attaching to different elements in the final result, I should be inclined to say that a good physique and attractive manners count for about 60 per cent., the ability to answer general knowledge questions about 20 per cent., and previous academic attainments whether in work or games for about 20 per cent.

63. These are in my opinion the conditions which prevail where everything is fair and illegitimate considerations are not allowed to intrude: and my actual experience is almost confined to such cases, though once or twice I have had reason to suspect that illegitimate considerations were exercising an influence. When I deal with illegitimate considerations I am on difficult ground. Jobbery can never be proved in a Court of Law even where its existence is patent to the unprejudiced observer. In making the following observations I am conscious that I am saying things I cannot prove. I can only say that I think I should be falling short in my duty if I did not put before the Commission the impression I have obtained as the result of such enquiries as I have been able to make.

64. I have alluded to the fact that in England jobs are occasionally perpetrated wherever recruitment is by selection. In this respect English conditions are different from those prevailing in India.

First in England a person who refuses to commit a job may disoblige a friend or a relation, but does not thereby lose his seat at an election or lose votes in a critical division in the House of Commons.

Secondly in England a person who is in a position to commit a job seldom has many friends or relatives, so closely allied to him by considerations of friendship or kinship, that he is anxious to commit a job in their favour. In other words, the greatest conceivable jobber would soon find that the number of his possible beneficiaries was exhausted.

Thirdly a person in England who is in a position to commit jobs is seldom so violently attached to a particular denomination of Christians or to a political party or to a particular nationality that he desires to do violence to his conscience by preferring candidates for the public service from that denomination, political party, or nationality to candidates better qualified from other sources.

Fourthly in England a wholesome public opinion hostile to jobbery has grown up during the last century.

65. On all these points according to all the information I have received India is very different.

On the first point I have been assured on the most

responsible authority that Indian Legislators have represented to Government that they would lose their seats unless patronage was exercised in favour of their friends. I have also been assured that a power to exercise patronage is essential for the purpose of securing wavering votes in a legislative council. In these circumstances the temptation to commit a job is enormous. The addition to the public service of a person of doubtful qualifications inflicts no immediate irretrievable damage. The loss of a critical division may have most serious consequences. On the second point I have been assured that those Indians who are in a position to exercise patronage are frequently surrounded by a large number of persons who press him to exercise his patronage in their favour.

The third point I need not labour. It is notorious that communal preferences pervade the public life of large parts of India. The extent to which this prevails is almost incredible. It has been represented to me on more than one occasion that in a certain area a candidate for the public service on being medically examined may be rejected on religious grounds if he is examined by a doctor of a different religious complexion from himself. I could neither prove nor investigate this but I have no doubt my informant believed it.

Fourthly it has been repeatedly and from many quarters stated to me that public opinion in India is such at the present time that no stigma attaches to jobbery. On the contrary an Indian who possesses patronage and does not exercise it in favour of his friends is regarded as a traitor to the obligations of friendship.

All these considerations appear to me to make the risk of jobbery which always attaches to a system of selection infinitely greater in India than in England with University men.

66. I have often discussed this subject with non-official Indians and especially with University men.

I think there is no doubt that they regard a system of selection as almost synonymous with a system of jobbery and those among them who prefer to rely on their own merits intensely dislike the system. It is a material factor in the consideration of the problem that it is desirable if possible to select those who are to exercise positions of authority in a manner which commands the confidence of the governed.

67. Appointment by pure selection is now confined to narrow limits within the All-India Services, but many European officials advocate it for the Provincial Services, and I have tried to discover the grounds of this advocacy. I think they are as follows:—

(1) Government officials who possess the power of patronage believe they exercise it well and do not like having the powers of Government taken out of their hands.

(2) Indian opinion only respects a Government which has power and exercises it. The exercise of patronage from time immemorial has been regarded as one of the most important powers of Government, and a Government which does not possess this power forfeits respect.

(3) It is really important to Government to be able to conciliate enemies or retain friends by the exercise of patronage.

(4) It is commonly believed that a system of competitive examination is inconsistent with a system whereby attention is paid to the due representation of communal interests.

This idea is really due to a misconception.

(5) The old traditions of the Competition Wallah survive, and it is believed that the man who gets a place by competitive examination is entirely incompetent for any other purpose than that of cramming text books.

If this was ever true, my experience leads me to think that it is entirely untrue now.

(6) There are many who have a genuine belief in the merits of selection, especially when the selection is performed by themselves. In my experience it is uncommon either in England or India to meet a

successful man of middle or a little more than middle age who is not convinced that he is peculiarly able to detect from among a crowd of candidates the candidate who is best, after an interview of a quarter or half an hour. I believe almost invariably he is under a delusion, and the greater his conviction the greater his delusion. I have seen great injustices perpetrated in this way in England and candidates who have been rejected have in other spheres attained positions which are a testimony to their abilities. In India the chances of error are greatly increased in the case of the European official. It is his misfortune that his official career cuts him off very largely from the society of the young of his own country. He is generally unacquainted with the young of India. He is apt to judge an undergraduate of an Indian University by his recollection (already grown rather hazy) of the standards of the undergraduate of Oxford or Cambridge at the dawn of the twentieth century.

(7) Many persons love to repeat the statement that there are "qualities which cannot be tested by examination." The question arises whether they can be tested by a short interview. At an interview you can determine whether a man is good looking, has a stout physique and pleasant manners. These no doubt are elements which enter into a choice. It is generally agreed by those of experience in these matters that you cannot form any opinion about moral qualities such as courage, honesty, endurance and industry. You may be able to obtain some opinion whether he is the sort of man who commands respect and confidence, but on this point opinion must necessarily be very uncertain. All other qualities are better tested by written examination.

(8) I find many advocates of selection emphasise the importance of appointing men of family to the public service on the ground that they alone can command respect. I believe that these persons are the exponents of a tradition, prevalent thirty years ago, which is rapidly dying out. I do not deny that candidates occasionally may have social connections which may be prejudicial to their usefulness but generally a candidate derives as much credit from his office as his family. I have talked to many non-official Indians on this subject and they all speak with contempt of the official who is jobbed into the public service on account of the distinction of his family. The only case in which the idea was allowed full play was the case of the Statutory Civilian and that proved a disastrous failure. I have been told that men of family are beginning to realise that their chances are slender unless they become also men of education, and are trying to equip themselves for the public service. Nothing could be more desirable in the interests of India, and appointments on family grounds remove the incentive to improvement.

68. There is a type of recruitment midway between recruitment by competitive examination and selection which in various forms is very prevalent in India. The following forms occur:—

(1) The recruitment is by competitive examination but only selected candidates are admitted to the examination.

Such a system is sometimes necessary in order to reduce the unwieldy number of candidates. I do not think the system works well chiefly owing to the difficulties attaching to selection and I prefer where possible other methods of reducing numbers.

(2) The recruitment is after an examination of selected candidates but the appointments are not necessarily made in order of merit in the examination.

The system causes much heart-burning. If once a candidate is regarded as sufficiently suitable to appear at the examination, he feels aggrieved if a candidate who has done worse than he has is appointed.

(3) The recruitment is by competitive examination but a large or small proportion of the marks is assigned to the *viva voce*. Those marks are really assigned not only for *viva voce* but also for school and university record both in work and games.

Where the proportion of marks assigned to *viva voce* is small, the system is almost indistinguishable from the system of pure competition; where it is large, it becomes almost indistinguishable from selection. *Viva voce* examination can be conducted in various ways, but in India, owing to Indian conditions, they are almost inevitably conducted in the least satisfactory way, namely, interviewing for somewhat less than half an hour a very large number of candidates of whom the interviewer possesses no previous knowledge.

69. I am not a great believer in *viva voce*. It is surprising how seldom it affects the final result. When it does it affects candidates on the margin of success or failure who are divided by very few marks in the written examination. Thus a few marks one way or the other may turn the scale. I think any approach to accuracy in marking at *viva voce* is an impossibility, and consequently where the marks have an effect I think the effect is as often unfair as fair. Before I began this work I was a believer in the *viva voce*, as I think most persons who have not closely examined its working are. A long study of examination results has satisfied me that the marking is so capricious and so dependent on accidental circumstances that little importance should be attached to it. In the present state of public opinion I should not propose its abolition and I think it is not entirely without value: but I think in a competitive examination it should account for only a small proportion of the total marks. I ought perhaps to say that some of my colleagues disagree with me on this point.

70. I think those who openly advocate the view that a Government must have patronage with which to conciliate enemies or reward friends do not fully realise how completely the situation has changed in the last few years with the great increase in the numbers of the politically minded. So long as their number was small, it was possible by the exercise of patronage to conciliate a few and not to offend very many and there was no strong public opinion to be antagonised. At the present time and increasingly so every day it is the case that the person who exercises patronage, conciliates a few persons whom he desires to conciliate at the cost of offending ten times that number of persons who had hoped that the patronage would be exercised in their favour. He affords to the enemies of government who claim to be supporters of purity of administration a quite legitimate ground for criticism. He alienates the whole body of Indian graduates, who have sufficient grievances in any case and who see themselves robbed of the fruit of the labours on which they had been encouraged by Government to embark. He provides the public service with a servant of inferior quality. In short, the disadvantages of patronage far outweighs the advantages. The condition of affairs is not dissimilar from that which prevailed in England after the Reform Act, 1832. The high-minded objected to political patronage because it was wrong: the less high-minded because it did not pay. Consequently the competitive system took its place.

71. It is for these reasons and not because I am a blind believer in competitive examinations in every place and under all conditions that I advocate recruitment by competitive examination as the only satisfactory method in India and under the conditions at present prevailing in India of recruiting the public services so far as the common type of recruitment is concerned.

#### Specialised Recruitment.

72. It is often necessary to recruit officers of mature years and experience for special posts. Here examination is impossible and the selection must be based on a general review of the candidates' knowledge and experience. These appointments are necessarily made by selection committees. The practice is for three members of the Public Service Commission assisted by an officer of the department concerned to make the selection. The Government of India



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have invariably I think agreed to selections so made. (Since writing this sentence they have disagreed in one case owing to very special circumstances.) I think the system has worked very satisfactorily and to the satisfaction of the Departments concerned. What of course is essential is that the impartiality of the Selection Committee should be recognised.

*Recruitment by Promotion.*

73. Promotion largely turns on the relative claims of seniority and merit. Seniority ought in fact to be of no importance because the question of seniority only becomes of importance on the occasion of a promotion. In the vast majority of cases, however, it has been definitely ruled that promotion is a matter of selection and that while experience is a factor in selections seniority as such has no place. When controversies as to seniority arise the Secretary of State is apt to tell the parties that seniority does not matter because promotion is made by merit.

74. Promotion ought to be made by merit but in fact it is not. Whatever Secretaries of State may say everybody in India knows that Governments prefer to protect themselves from criticism, from harassing complaints and from charges of partiality, and that the easiest method of doing this is to promote by seniority and not by merit, merely weeding out the obviously unsuitable.

75. I think it is impossible to eradicate this tendency of Government, which is due in part to conditions which are specially Indian: but a further complication is introduced into the matter by the fact that the seniority which Governments take into account is not real seniority but a seniority based on rules which they have made and which are often quite absurdly wrong. Hence arise the most devastating controversies raging over many years and absorbing the energies of the most highly placed officials both in the Central and Local Governments, first as to the terms of the rule before it is made and subsequently as to its amendment after it is made. We get then the situation first that Governments are guided solely by so-called seniority, when under the rules seniority as such should not be taken into account at all; secondly they are guided solely by rules of seniority which are patently wrong; and thirdly in consequence of the first two propositions they prefer A to B in pursuance of the rule of seniority, when it is manifest that on any reasonable interpretation of the facts B is senior to A and possibly a better man.

76. These perpetual disputes are as far as I know peculiar to India. In England to the best of my belief if A and B had a dispute as to their respective seniorities and referred the matter to the Head of their Department, the Head would tell them to go away and do the work which they were paid to do. On the basis of that work and on no other basis he would decide when the time came which of them to promote. In other words he would refuse to decide a dispute which, however interesting to the combatants, was of no interest to Government.

77. I can only suggest that the same rule should be applied to India. Let all the facts of an officer's career be properly recorded: and on those facts when the question of promotion arose it could be decided which officer was deserving of promotion. This would not prevent (and I think nothing can prevent) an officer being promoted mainly on grounds of seniority. It would at least prevent an officer being promoted on the ground of a seniority which did not exist and which rested on a rule which was absurd.

78. It is very hard to come to a conclusion whether as regards the general executive service the evil which is done by too slavish adherence to the principle of seniority outweighs the evils which might result, if promotion depended on personal choice and became subject to the accusation of favouritism which would undoubtedly arise. The situation may be much affected by altered conditions. If 95 per cent. of a service are of good quality promotion by seniority does little harm. Promotion by seniority

may become positively dangerous if only 45 per cent. of the service are of good quality.

I entertain little doubt that, in the specialist and technical departments the rule of seniority does untold harm. It frequently makes it necessary for a man in his own pecuniary interests to leave work in which he is doing immense service to India to take up work higher in order of seniority for which he has neither inclination or special capacity. This, however, is only one of the many examples of the defective organisation of specialist and technical work in this country.

79. The Public Service Commission are mainly concerned with promotion into an All-India Service or a Central Service (Class I) and even here their powers are very limited.

I have dealt with recruitment by promotion in paragraph 15 (f) of this Memorandum.

Generally speaking, the experience of the Public Service Commission as to promotion is not unfavourable. The best way of choosing candidates for a service is to try them, and promotion from an inferior service ought to afford a good method of getting efficient candidates for the superior service. In England it is not easy to resort to this method to any great extent because there is a clear line of division between the superior and inferior service represented by a different education. It is a difference of kind and not of degree and it is not often feasible to make promotion from one class to the other.

In India no such clear line of division exists. As is pointed out elsewhere it is largely an accident whether a particular recruit is in the superior or inferior service: and so far as academic attainments form a test the recruit in the inferior service is only separated by a few marks from and may actually be better than the recruit to the superior service. The conditions for promotion are thus ideal and the really promising youth in the inferior service ought to be promoted as soon as possible to the superior.

80. Unfortunately in India the service feeling both of the superior and inferior service is against promotion by merit from one service to another. The superior service which has entered that service by a recognised avenue dislikes the idea of any one entering by any other avenue, and promotions of this kind cause difficulties as to status and salary. On the other hand the older man in the provincial service is unwilling that the promising junior should be promoted over his head. The result is that the promising junior is seldom promoted and promotion is confined to senior men who are verging on retirement and are beginning to think that the time has arrived when they may rest on their oars. I doubt whether these persons greatly strengthen the superior service. In most superior services Government have issued orders that a certain proportion of the posts should be filled by promotion. In the I.C.S. the proportion is to be 20 per cent. When this proportion is attained it will scarcely be possible for Government to adhere to their present practice of promoting men of advanced service who have done their best work and some of the places must go to the juniors.

The situation is really becoming chaotic. The distinction between a superior service and an inferior (especially such a wide distinction as exists in India) can only be justified so long as the personnel of the one service is markedly superior to that of the other. As regards recruits now coming forward no such marked superiority exists.

**LOCAL PUBLIC SERVICE COMMISSIONS.**

81. The Report of the Royal Commission on the Superior Civil Services brought into prominence the question of establishing a Public Service Commission, and on 1st July, 1924, the Government of India addressed a letter to all Local Governments on the subject. The Governments of Madras and Burma in response to this letter formulated proposals for establishing local public service commissions. On 20th December, 1924, His Excellency the Viceroy in a telegram to the Secretary of State reported that

Madras and Burma wished to constitute local Public Service Commissions, expressed the view that they should be allowed to try the experiment and supported the proposals. In a Despatch of 9th April, 1925, the Secretary of State accepted the proposals on the understanding that the Public Service Acts necessary to make statutory provision for the local Commissions are duly made by the Provincial Councils.

82. When Parliament set up the Public Service Commission, it contemplated that its functions should extend throughout India. As the Government of India pointed out in their letter of 1st July, 1924, the Royal Commission on Superior Civil Services evidently held that the time was not yet ripe for the constitution of whole time Provincial Commissions. It was clear that if the intentions of Parliament and of the Royal Commission were to be carried into effect, it was vital to consider what should be the relation between the Public Service Commission and the local Commissions. The letter of 9th April, 1925, to which I have referred, did not answer that question. The most appropriate time to consider that question would be after the Public Service Commission had been set up and acquired some experience of the problem it had to face.

83. The question of local Public Service Commissions arose again in the summer of 1926, after I had arrived in India, but before the Public Service Commission was set up; and I then successfully represented that the matter should be deferred till the Public Service Commission was constituted. I understand that Burma are not at present proceeding with the proposal: but the issue is still alive in Madras.

84. On 10th December, 1927, the Government of Madras forwarded to the Government of India a Madras Services Commission Bill which they desired to introduce during the session of the Legislative Council beginning on 23rd January, 1928. On 30th December, 1927, the Government of India forwarded to the Public Service Commission a copy of the Bill and stated that the Government of India proposed to invite the Secretary of State to make a rule under section 96 (B) (2) empowering Local Governments to constitute local public service commissions. They pointed out, however, that the relations of such a Commission with the Public Service Commission required careful consideration and asked the views of the Commission.

85. The Bill differed in material respects from the proposals which the Madras Government had previously made in their letter of 12th September, 1924, and set up a local Commission entirely unconnected with the Public Service Commission. It was, in my opinion, inconsistent both with the intention of the Government of India Act and with the report of the Royal Commission.

86. The Public Service Commission replied on 30th January, 1928. A copy of their letter is attached. (Appendix A. One member of the Commission dissented on two points in the letter.) They said in effect that if an effective link were established between the Public Service Commission and the Local Commission, they thought the consideration of the matter might proceed: but, if there was to be no such link, the matter was of such importance that it should be referred to the Statutory Commission. The Commission in paragraph 14 made detailed suggestions as to various matters, including the relations between the Public Service Commission and the local Commissions. I have no information as to whether any further action has been taken in the matter.

87. On 9th March, 1926, the Civil Services (Governors' Provinces) Delegation Rules, 1926, were made. Under those rules the power to make rules regulating the method of recruitment to provincial services, subordinate services and special posts was delegated to the Local Governments of Governors' Provinces.

The rule provided that the making of first appointments to a provincial service, otherwise than on the

result of a competitive examination, or on the advice of a permanent Board of Selection appointed by the Local Government, or of the Public Services Commission, should require the sanction of the Governor General in Council. It also provided that the fixing for admission to any existing provincial service of standards lower than the standards regulating admission to that service on 9th March, 1926, should require similar sanction.

88. This rule was made about six months before the Public Service Commission was constituted. Rather more than six years earlier Parliament had enacted that the public service commission should discharge in regard to recruitment of the public services in India such functions as might be assigned thereto by the Secretary of State. Before that direction had been carried out, even so far as to appoint a Commission, the whole subject of recruitment was delegated to Local Governments subject to a reservation which did not leave any power in the hands of the Public Service Commission.

89. This rule appears to me to be very unsatisfactory for reasons quite independent of the Public Service Commission. It is also entirely inconsistent with the Report of the Royal Commission on the Superior Civil Services. I believe its revision has been under consideration for two years and for that reason I do not criticise its provisions. It deserves notice, however, from another point of view. It is often argued that the grant to the Public Service Commission of powers in relation to the provincial services would be inconsistent with that local autonomy which it was the object of the Government of India Act, 1919, to secure. I think the argument is a bad one because at the moment when Parliament was conferring that measure of local autonomy, it limited it by a provision which contemplated the grant of independent powers of recruitment and control to the Public Service Commission. Such validity, as it possesses, seems to me to be completely destroyed by the fact that by the present rule the Secretary of State has imposed a substantial restriction on local autonomy. In my view it is more an infringement of local autonomy to divest a Local Government of the control of recruitment to the public services than it is to divest them of control over the decisions of the High Court. In each case this non-interference is necessary on public grounds.

90. The question really at issue appears to me to be not a question between Local and Central Government, since in either case Government should have little or nothing to do with the matter. I think the sole question to be answered is whether recruitment and control of the provincial public services is best secured by a central or a local body or partly by one and partly by the other.

91. It may, perhaps, be assumed that a Local Public Service Commission would within the sphere of the Local Government be charged with the same duties as are assigned to the Public Service Commission in connection with the All-India Services. These are mainly:—

- (1) Recruitment (a) by examination.  
(b) by selection.
- (2) Disciplinary functions.
- (3) General advice on service questions.

92. A Local Public Service Commission could scarcely consist of more than three persons and these persons, or some of them would, for the adequate discharge of their duties, need the following qualifications:—

- (i) An intimate knowledge of civil administration and the principles on which it is conducted. They must be men who "appreciate the vital and intimate relationship which should exist between the State and its Servants" (Royal Commission Report, paragraph 26).
- (ii) High judicial or other legal qualifications.
- (iii) Detachment from all political associations.

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- (iv) An intimate acquaintance with educational conditions in India.
- (v) A capacity to conduct and organise examinations.
- (vi) A knowledge (not necessarily profound) of most subjects which are taught in Indian Universities.

93. Furthermore, in the somewhat unfortunate conditions which prevail in India, they must if they are to secure public confidence :—

- (1) contain representatives of two or perhaps more rival communities,
- (2) be fairly representative of the different interests which are affected, e.g. different services,
- (3) be men of seniority and standing,
- (4) have nothing to hope or fear from any Government,
- (5) receive salaries sufficient in amount to attract candidates from other remunerative occupations,
- (6) be men who, if already employed in Government service, can be spared from the occupations in which they are at present engaged (a matter of no small difficulty in India).

94. It is difficult to speak with any confidence as to the amount of work which in a province such a body would have to discharge : but it is my belief based on my experience of similar work for the last eighteen months that these costly officers who would have to be provided with a somewhat costly staff would never have sufficient work to do to employ them for any large proportion of the year. In the smaller provinces the appointments would almost degenerate into costly sinecures. The Civil Service Commissioners in London dealt in 1927 with 16,540 appointments. I doubt whether even in a large province of India the number of appointments would amount to five per cent. of that total.

95. Having had special occasion to investigate the question, I am very doubtful whether it is possible to secure for Local Governments a sufficient supply of men possessing the very unusual qualifications required to fill these offices. It is difficult in a Commission of five members. It would be still more difficult in a Commission of three. The point of continuity is also of great importance. A commission must acquire its experience and the combined effect of retirements and leave make it necessary to recruit at frequent intervals for a post which it is very difficult to fill. It would seldom happen that a majority of the Commission had any prolonged experience of its very special and technical work. Among the qualifications which it would be difficult to secure I should specially mention the qualification of detachment. The official world of a province is a very small world and any one of sufficient prominence to be appointed to such a post is probably affected by many affiliations, to causes, creeds and even persons which would shake public confidence in his impartiality. I am much afraid that these appointments would fall into the hands of persons for whom it was impossible to find other employment, pensioners who desired to increase their pensions, persons who had been useful to Government and persons whose activities it was desirable to neutralise. In short, I fear that the appointment of the very persons whose duty it was to secure the freedom of the public service from political influence would become an occasion for the most undesirable exercises of that influence.

96. I should like to deal in turn with the various functions I have mentioned.

*The conduct of examinations.*—It is not generally realised how much skill and special knowledge is involved in the conduct of examinations, (a) in the selection of the subjects for examination, (b) in the appointment of examiners. The Public Service Commission are gradually forming a list of examiners, and acquiring experience of examiners. It by no means follows that because a man is fully acquainted

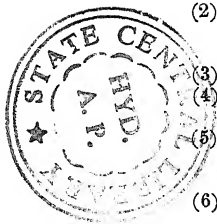
with a certain subject he is therefore a good examiner. Examiners frequently set bad papers, are careless in correcting them, cannot be trusted to add up marks correctly, set questions which it is impossible to answer, or cannot be trusted to correct their papers within the proper time. The Public Service Commission conduct a very large number of examinations and are acquiring the capacity to select the best examiners. A local commission ought generally and perhaps always to select its examiners from outside the province : and it cannot possibly acquire sufficient experience on this subject. (c) In the examination of examination papers. A very large proportion of the examination papers set by examiners require correction before they are finally issued to examinees. Sometimes questions are ambiguous ; sometimes they are outside the prescribed syllabus ; sometimes they do not sufficiently cover the ground ; sometimes they contain obvious errors. Every paper has to be examined with great care by some one who has sufficient acquaintance with the subject to correct deficiencies of this character. It is difficult, on a Commission of three, to find sufficient knowledge for this purpose. (d) In the ultimate adjustment of marks. No examining body can safely accept the marks awarded by examiners, without considering what relation they bear to the marks awarded by other examiners. If, for instance, the marks awarded in subject A are 20 per cent. of the total and those awarded in subject B 90 per cent. of the total, it is necessary to determine whether the difference is due to a difference in the standard of marking or to the fact that the candidates in subject A were exceptionally bad and those in subject B exceptionally good. In the former case an adjustment of marks is necessary. The question whether an adjustment is required and what shall be the nature of the adjustment is one of the greatest difficulty, involving great skill and experience, which a Local Commission can with difficulty acquire. (e) The revision from time to time of the syllabus, etc., should be based on a very wide experience based on a close study of a large number of past results. A Local Commission can acquire no such experience.

I was very much struck on my arrival in India with the haphazard way in which examinations were conducted : and I have no hesitation in saying that where recruitment is by examination the Public Service Commission can as the result of their wide experience recruit far more successfully than a Local Commission. In another part of this Memorandum I have called attention to the importance of associating Provincial Service Examinations with Imperial Service Examinations.

97. *Recruitment by selection.*—In my view this method of recruitment should almost be confined to specialist appointments. The rules of the Government of India on the subject prescribe a permanent Board of Selection : and if Local Service Commissions are established that Board would presumably be the Local Commission. I do not think selection can be made adequately by such a Board. On the Public Service Commission there are five members of varied qualifications and they are greatly assisted by the advice of departmental officers. In practice the selection is usually made by a Committee of three, assisted by the Departmental Officer, and I think, the result is usually satisfactory. But if the Committee of three always had to be the same Committee of three, I think the result would be unsatisfactory, since the Committee would often contain no person who was from his special knowledge in a position to form an opinion on the subject.

I am of opinion that for specialist selections it would in the area of Local Governments be almost essential to set up specialist selection boards.

98. I should add that I have never yet encountered a person who was confident that a permanent local selection board could permanently remain immune from political and communal influences. In my experience Governments do not hesitate to press the claims of candidates they favour : and in the small



community of a Local Government it requires considerable strength of mind to resist Government pressure.

99. I think it is quite clear that the Public Service Commission cannot undertake the task of selecting persons for all the appointments to be made by selection throughout India. I do think they can exercise a general supervision over these appointments. I prefer with some modifications the solution put forward in paragraph 26 of the Report on the Royal Commission on the Superior Civil Services. I think in every province there should be a full-time officer specially charged with the consideration of service matters. He should be the liaison officer between the Public Service Commission and the Local Government. It should be his duty to set up selection committees and usually to act as their Chairman: but the Public Service Commission should be entitled to decide their composition, and, when convenient, to send members to attend them.

100. *Disciplinary powers.*—There is at present an elaborate system whereby the Public Service Commission is consulted on the exercise of disciplinary powers as regards the All-India Services. The need of those services for protection of this kind is not very great and only arises in exceptional cases. I can only recall one case in which in my opinion a member of an All-India Service was treated with gross injustice and I believe that injustice would ultimately have been remedied if the Public Service Commission had never existed. On the other hand I think the Provincial Services are in very great need of protection against unjust treatment. Cases of this kind do not come before me officially and I cannot quote instances in support of my view, but I do not think the fact would be denied by any one familiar with provincial service conditions.

101. The rules governing appeals by Provincial Service officers are at present, I believe, under consideration; and I can only deal with the latest information I possess on the subject. At present a provincial civil servant who feels aggrieved by disciplinary action taken against him can appeal if he is on the reserved side from the Governor in Council to the Governor, and, if he is on the transferred side, from the Governor and his Minister to the Governor. In practice I understand these disciplinary orders are not in the first instance made at a meeting of the Council or of the Governor and Ministers, as the case may be. They are decided by the Member of Council or Minister in charge of the department and the Governor: and the Governor necessarily takes a special interest in the matter because by his instrument of instructions he is specially charged to safeguard all members of the services and to order all things justly and reasonably in their regard. Consequently the existing appeal is from a Governor and a Member of Council or a Minister who have already given their verdict on the matter to the Governor himself. It is a contradiction of everything which an appeal ought to be: it is an appeal from the verdict of two men to one of those men: from an order of the Executive Government to the head of that executive. There has been correspondence with Local Governments on this subject, and the most that can be said in favour of the appeal is that it is not entirely illusory and that in very rare cases such an appeal may be successful. Governors, of course, desire to do justice, and they do it to the best of their ability, whether they act in Council or as individuals. The fact, however, is that a Governor must necessarily rely to a great extent on the advice of his advisers, and it is quite impossible for him to study all the details of the often complicated discipline cases which come before him. It is also almost inevitable that he should be predisposed as an individual to confirm the verdict which he gave when sitting in Council. The present system of appeal appears to me so absurd and so contrary to justice that I should prefer to see it abolished even if nothing were to take its place. I think it puts an unfair responsibility on the

Governor, since it requires him to undertake a duty which it is almost impossible for him to discharge. In a recent case disciplinary action was taken against an officer under the orders of the Governor in Council. The Governor in Council had omitted to notice an obscure piece of paper which almost conclusively disproved some of the findings. The matter came before the Public Service Commission who were able after great research to bring the true facts to light. If the appeal had gone to the Governor, the Governor could not reasonably be expected to discover a document, trivial in itself, but decisive in the light which it threw on the facts, which had escaped the attention of his own Departmental officers, whose duty it was to make a full investigation.

102. I think that an officer of the Provincial Service should have the same opportunity of laying his case before a Service Commission as is afforded to the officer of an All-India Service. It is unlikely in any case that some of the provinces will desire to set up Local Service Commissions on the ground of expense: and in provinces which have no Local Commissions it would appear necessary that any appeal should be handled by the Public Service Commission, directly or indirectly. I am of opinion that even in provinces which set up Local Service Commissions it is desirable that some powers should be reserved to the Public Service Commission, and in support of this view I would again revert to the fact that a Local Service Commission is necessarily local and however anxious it may be to do justice, is greatly affected by the local conditions in which it lives. It may easily happen that it may itself be conscious that it is not the best tribunal to deal with some of the cases which come before it. Unless in disciplinary matters a Local Commission commands general confidence it is worse than useless.

103. I am not in favour of Local Service Commissions: and if they are not established, the procedure I would suggest is that discipline cases should primarily be referred to the liaison officer whose appointment I have advocated in connection with the appointments by selection. Under general or special instructions from the Public Service Commission he would decide in what manner disciplinary cases should be handled. In cases of special difficulty the Public Service Commission could take charge themselves. If, however, Local Service Commissions are set up, I would suggest that the officer affected should have a right to request that his case should be handled not by the Local Service Commission but by the Public Service Commission. That request would be transmitted to the Public Service Commission by the Local Service Commission, and the Public Service Commission could consider whether there was sufficient ground for granting the request. I think also the Local Government should have initial power to order that a case should be referred to the Public Service Commission.

104. *General Service Questions.*—It is contemplated that Local Service Commissions should tender advice to Local Governments on these subjects. On that point I would observe, firstly, that, while admitting that there are many reasons for diversity as between different provinces, there are many advantages in uniformity, so far as uniformity is possible having regard to difference in conditions. Unnecessary variations in the conditions of service in different provinces give rise to incessant agitation for a revision of service conditions so as to put them on a par with the most favourable conditions prevailing in any province. The point is very familiar in English experience, where the discrepancies between particular areas gave rise to such confusion and inconvenience as to necessitate a national settlement. Secondly, many service questions are very technical and complicated and require a wide experience for their proper solution. In this connection I would mention the question of pensions which I have had special occasion to study. It is very easy for a body equipped with insufficient knowledge of this subject to make mistakes which prove to be almost



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irretrievable. On both these grounds, it seems to me highly desirable that the Public Service Commission should be in a position to give advice, since it should acquire a wider knowledge than any local body can acquire. I would suggest that the proper machinery would be for the Public Service Commission to study the problems which arise through the medium of local committees. The local committees could apply their knowledge of local conditions while the Commission could give the assistance of its general experience.

105. Before I conclude this subject, I should mention two points. First, the importance of the Provincial Services is being greatly increased owing to the disappearance of the Imperial Services in the transferred branches of administration. The future efficiency of the education of India will depend on the establishment of a proper system of recruitment for the provincial educational services. Secondly, I desire to point out what in my view is the true meaning of the common objection that the grant of powers to the Public Service Commission in the provinces would be resented as interfering with local autonomy. I think the resentment would be confined to Local Governments who naturally dislike any derogation from their absolute powers. I have no reason to suppose it extends any further. In fact I have reason to believe that people at large in the provinces would prefer a system of recruitment untainted by Government patronage and that the services themselves have reason to be apprehensive as to their position under the present system and would prefer an arrangement whereby their cases could be considered by a tribunal which, owing to its detachment, is necessarily impartial.

#### INDIANISATION.

106. Indianisation is a fact, and it has been fact long enough to enable tentative conclusions to be reached as to its success. Recruits, whether Indian or English, are brought into the services in their early twenties, and at this stage the process is purely experimental. The real testing time comes 15 or 20 years later when the recruits have risen to positions of responsibility, and it is only then that it is possible to say with any confidence that the system of recruitment has been a success. Indians have been serving in the public services now for a long enough period to enable some fairly sound deductions to be made. Experience should have shown for what posts they are specially fitted. On that point I can express no opinion.

107. Neither am I in a position to deal with the political aspects of the matter, nor the basis on which Indianisation should proceed. Should an Indian be employed in preference to an Englishman whenever a suitable Indian is available? Or should he only be employed where he is likely to serve the country better? Or should he be employed wherever it can be done without grave loss of efficiency? These questions lie outside my province. As a recruiting officer, however, I should say that the present system of Indianisation is unfavourable to successful recruitment. The practice is to ordain that a certain proportion of Indians should be recruited to a service. This inevitably means that sometimes it is necessary to reject Indians who would make good public servants and sometimes it is necessary to accept Indians who are unlikely to do so. I could give instances within my experience of both cases. Regarding the matter merely as a recruiting officer I should like to make no distinctions based on nationality or religion.

108. I think the question which I should answer may be put as follows:—

Assuming that Indians in the past have been successful recruits to the public services, how many Indians of a similar or better type are available? Or to put it in another way, if there were no political or other obstacles to complete Indianisation, would it be possible to find a sufficient supply of well qualified Indians to man the public services?

Subject to qualifications which I will presently mention, my answer to the first of these questions is "As many as are wanted," and to the second "Yes." In other words, if the Public Service Commission were instructed to recruit the I.C.S. or any other Service entirely from Indians, I do not think it would have any difficulty in doing so or in providing an adequate supply of suitable candidates not inferior to the Indians at present in the public service. This is subject to the following qualifications:—

- (i) Recruitment is always a speculation. The object is to discover from among young men of 22 or 23 men who will do from 25 to 35 years of good service. It is, of course, often the case that the promising youth of 22 or 23 is the failure of 40 or 45. The recruiting officer can only look at the material before him in the hope that its qualities will endure. From this point of view my opinion is that the material is excellent and sufficient in quality to satisfy any claims that are made upon it. The best Indian candidates for the public services are men of a high order of intelligence, excellent physique, good at games and afford a promise of becoming first rate public servants. There is a common belief that the Indian who succeeds in examinations for the public service is the Indian without physical or mental endowments other than a power to cram text-books quickly. Having seen many hundreds of candidates I have not yet encountered this type. So far as suitability for the public service can be judged at the age of 22 or 23, I see little or nothing to choose between the English and the Indian candidate. I should again, however, emphasise the point that as to the durability of the candidates, I have no experience sufficient to justify me in expressing an opinion.

- (ii) I regard it as absolutely essential in the case of administrative posts, such as the Indian Civil Service and desirable in the case of many other posts, that the successful Indian candidate should spend before or after selection a considerable period, generally three years, in Europe, preferably in England at a residential English University. The Public Service Commission have made suggestions to this effect and I will not enlarge on the subject.

The first reason why I advocate this is the limited horizon, intellectual and cultural, within which many Indians live. The crowded state of the schools and universities is unfavourable to personal contact between teacher and taught, and the student often passes through his course without ever having any close contact with a first-rate mind. I have no doubt as to the really remarkable intelligence of many Indian students. It is often pitiful to see that they have no scope for its exercise. The second reason is that an attempt is being made to govern India according to Western ideas and it is essential that the public servant of India should be able to study those ideas on the spot.

In connection with technical and scientific or semi-scientific appointments, I deprecate any system whereby officers who are to hold important posts of this nature are compelled to rely solely on their Indian knowledge and experience, without having had any opportunities of studying the practice and problems of other countries. It is in some departments becoming increasingly difficult for Indians who have acquired European experience to obtain appointments in India. It appears to me inevitable that if the technical and scientific

## APPENDIX.

appointments in India are confined to officers of solely Indian experience, India will fall far behind the rest of the world in these matters.

- I should like also to emphasise the importance of doing everything that can be done for the Indian officer studying in England. If the English are to be an imperial people they must recognise their imperial responsibilities. I am not very familiar with this question, but from all I have heard I have reason to suppose that there is room for improvement in this respect.
- (iii) I have not visited Burma, but such information as I possess leads me to doubt whether it is possible to staff the public services in Burma at present effectively with Burmese. The policy of Burma for the Burmans is established and the question of employing Indians does not arise.
- (iv) There are certain services in which my general proposition is not true, not owing to the non-existence of persons who are suitable for those services, but owing to the unwillingness of Indians to serve. There is a scarcity of suitable recruits both for the Forest Service and the Police, in both cases I believe because the conditions of service are not attractive to the Indian.

The subject deserves further inquiry. I am not without hopes that the difficulties which even at present are not overwhelming may be surmounted.

- (v) In cases where the Public Service Commission are enjoined to appoint candidates on communal grounds, there is sometimes a difficulty in finding a suitable candidate. With regard to Muslims the difficulty is not generally very serious, and though it is not easy to judge, I am under the impression that the quality of Muslim candidates is rapidly improving. The difficulty is much more serious with the Sikhs and the Anglo-Indians.
- (vi) There is often great difficulty in securing suitable Indian candidates for technical, scientific and engineering appointments, and here I am referring mainly to appointments made as the result of selection and not by examination. It is usually possible to secure a suitable Indian candidate for a purely scientific appointment if the subject is one which is studied at Indian Universities: but in cases where both practical and theoretical knowledge are necessary, it very often happens that one or the other is absent. In an administrative post a failure is generally partial; in a technical post it is generally complete. I have seen cases in which a very large number of Indian candidates have applied for a technical post and in which the Commission have come to the conclusion that it would be a positive danger to the public security to appoint any of them. It is very common for candidates of this kind to have visited England and taken a scientific course at an English University or to have served as apprentices in some important engineering or electrical firm. I have been much puzzled to find that these candidates have often derived absolutely no technical benefit from their English experience. I am unable to explain the reason; but I think the matter should be investigated in England.

## CONCLUSION.

109. I should like in conclusion to state how important the problems with which the Public Service Commission is concerned are to the welfare of India. The public servant in India is able to an extent infinitely greater than in England to exercise an

influence on the fortunes of the population. The preoccupation of educated India with service questions attains proportions which would be inconceivable in England. No measures which are devised for the good of Indians can in my opinion succeed unless they are administered by services whose recruitment is free from the taint of corruption or political influence, whose organisation is directed solely to the efficient achievement of the objects it is desired to secure, and whose traditions of faithful service, absolute impartiality, and unblemished integrity rival those which have prevailed for so many years in the Civil Service of England.

29th May, 1928.

(Sd.) W. R. BARKER.

## APPENDIX A.

*Letter from J. H. WISE, Esq., I.C.S., Secretary, Public Service Commission, to the Secretary to the Government of India, Home Department, No. F.-2128-S., Dated the 30th January, 1928.*

SUBJECT:—*Constitution of a local Public Service Commission for the Presidency of Madras.*

I am directed to acknowledge the receipt of your letter No. F.-2861/27-Ests., dated the 30th December, 1927, on the subject of the constitution of a local Public Service Commission for the Presidency of Madras, and enclosing a copy of a bill which it is proposed to introduce in the Madras Legislative Council.

2. The Bill proposes to establish a local Service Commission unconnected with the Public Service Commission to deal with Provincial and Subordinate Services in the Presidency of Madras. So far as the Subordinate Services are concerned, the Public Service Commission are of opinion that their recruitment and control should be treated as matters outside their concern and the observations contained in the present letter are directed to the question of the provincial service. The effective recruitment and control of the Provincial Services has always been a matter of great importance for the efficient discharge of the duties of government and the constitutional changes inaugurated by the Government of India Act, 1919, have accentuated that importance inasmuch as in the transferred fields of administration, they involve the discharge by officers of the Provincial Services of duties which had hitherto been discharged by officers of the All-India Services. The first despatch on the Indian Constitutional Reforms, dated the 5th March, 1919 (paragraph 55), recognised the necessity of associating with the devolution of powers to Provincial Governments, provisions designed to secure the services from political influences and to prevent them from coming more and more under ministerial control. The Bill which it is proposed to introduce into the Madras Legislative Council represents a particular method of securing these ends. Its importance is not limited to Madras, since it is proposed to make a general rule under Section 96-B (2) of the Government of India Act enabling other provinces to adopt the same solution. Even apart from any general rule on the subject it is plain that there could be little ground for rejecting in other provinces a proposal which had been approved for the Presidency of Madras.

3. Whatever view may be taken of the solution of the question proposed in the Bill, it is clear that it is not a solution which was in the contemplation of Parliament when it passed the Government of India Act, 1919. That Act (Section 38) directed the establishment of one Public Service Commission to discharge, in regard to the recruitment and control of the public services in India, such functions as might be assigned thereto by rules made by the Secretary of State in Council. The section is not limited to the All-India and Central Services and the despatch on Indian Constitutional Reforms makes it clear that it was not the intention so to limit it.

## APPENDIX.

[Continued.]

Local Public Service Commissions were not contemplated. The Section represented an integral part of the scheme of constitutional reforms, and was regarded as necessary for their efficient working.

4. The proposed Bill, so far as the Presidency of Madras is concerned, permanently deprives the Secretary of State in Council of the power committed to him by Parliament of assigning duties to the Public Service Commission in relation to the Provincial Services in Madras, and, so far as legislation can effect it, permanently dissociates the Public Service Commission from any connection with those services. The same results will follow throughout India in any Provinces which, in pursuance of the general rule it is proposed to make, adopt a similar Bill. The Commission submit that in a matter of such permanent and far-reaching importance the Statutory Commission should be consulted before a system is inaugurated which, whatever may be its merits, was outside the contemplation of Parliament when it passed the Government of India Act.

5. The Commission would not consider that the reasons they have assigned for referring the matter to the Statutory Commission would apply if the Bill were amended in such a way as to provide an effective link between the Public Service Commission and the local Commission. The Commission in fact realise that an All-India Body of limited size cannot hope to discharge personally the duty of recruiting candidates for all the Provincial Services. They consider, however, that as regards the Provincial Services there should be a link between the Public Service Commission and the Local Commission. While the Commission do not desire to dogmatise as to the exact nature of this link since they are of opinion that it may vary according to the circumstances of different provinces and the wishes of different Governments, they would point out that some important suggestions for a solution of the problem are contained in Chapter IV of the Report of the Royal Commission on the Superior Civil Services in India.

6. That Commission, while disclaiming any intention to intrude the Public Service Commission forcibly into the provincial field, definitely recommended that the Public Service Commission should be the final authority for determining in consultation with the Local Government the standards of qualification and the methods of examination for the Civil Services. They also felt confident that the Public Service Commission would in course of time become the recognised expert authority in India on all service questions. Paragraph 26 of their Report suggested that in order to give the Public Service Commission the necessary experience to enable them when invited to do so to assist Local Governments in dealing with problems of provincial administration the Chairmen of the Provincial Selection Boards should be full time paid officials appointed by the Governor in Council in consultation with the Public Service Commission.

7. In one respect at any rate the Public Service Commission do not desire to possess powers so wide as those which the Royal Commission would have assigned to them. They do not desire to determine standards of qualification, and methods of examination for the provincial civil services. They merely desire to possess a right to advise Local Governments on this subject. Neither do they attach great importance to the suggestion that the Chairman of the Provincial Selection Board should be appointed after consultation with them though later in this letter they deal with the method of his appointment. They consider, however, that he should be the link connecting the general experience of the Public Service Commission on service matters with the special knowledge which is necessary in order to deal effectively with Provincial matters.

8. It is not quite clear what the Royal Commission included in the phrase "standards of qualification" and methods of examination." Under these headings the Public Service Commission think

that they should have a right to advise (a) what particular qualification, e.g. a Degree, should entitle a person to become a candidate for the service, (b) whether the method of recruitment should be by oral examination or interview or by written examination, (c) what the subjects of examination should be, and (d) what standard in those examinations should be required. They would not, of course, desire to advise as to any decision of the Local Government to make an appointment on communal grounds. The Commission are aware that power (b) is not at present exercised by them in relation to the All-India Services. They have, however, in fact been consulted by the Government of India on the subject, which is one on which their experience may often enable them to tender useful advice, though they realise that where provincial matters are involved, local considerations must carry great weight.

9. In order to give effect to these proposals the Commission would propose the following amendments to the Bill:—

*After Clause 9 insert a new Clause—*

Where it is proposed to recruit to any provincial service the Commission shall after consulting the Public Service Commission advise the Local Government—

- (1) as to the method of recruitment,
- (2) as to the qualification of candidates and the submission of applications, and
- (3) where a written examination is held as to the syllabus and standard of the examination.

Any advice given by the Public Service Commission shall be communicated to the Local Government.

Omit Sub-clause (i) of Clause 10 and Sub-clause (i) of Clause 11.

10. With regard to other matters the Commission regard it as of importance from the point of view of the interests of the services that a Service Commission should be absolutely free from any local influences. The members of the Public Service Commission are appointed and can only be removed by the Secretary of State for India and on this analogy the Commission think that it would be better if the members of the Madras Services Commission were appointed and removed by the Governor-General in Council.

11. On matters of detail the Commission see no reason why Clause 11 should be confined to recruitment for provincial or subordinate services and should not extend to special posts. They also think that the words "arranged in the order of preference" should be added after the word "appointment" at the end of the first sentence of sub-clause (iv).

In Clause 12 (iii) the Commission would suggest the omission of the words "if so required by the Local Government." They do not occur in Clause 6 of the Public Service Commission (Functions) Rules, 1926; and if the Commission have several candidates before them it appears to be an undue limitation of their functions not to allow them to say which is best.

12. With regard to the disciplinary matters governed by Chapter V, the Commission are of opinion that the Local Government should have power to refer cases arising under Clauses 15 and 16 to the Public Service Commission instead of to the Madras Service Commission. They do not contemplate that this power would often be exercised, but cases may arise in which it would be embarrassing to refer a case to a Commission with local associations. This could be effected by adding at the end of Clause 15 the words "or in which they have consulted the Public Service Commission."

13. Finally the Public Service Commission observe that Clauses 10 and 11 of the Bill make it obligatory that the holding of examinations and the selection of candidates otherwise than by examination for the Provincial services shall be conducted in all circumstances by the Madras Service Commission, consequently the local Government will be debarred from inviting the assistance of the Public Service Commission in those directions and to that extent.

the provisions of Rule 9 of the Public Service Commission (Functions) Rules will become nugatory. The Commission would accordingly suggest the insertion of a clause in the Bill to the effect that, notwithstanding anything contained in Clauses 10 and 11, the local Government may, if they so desire, after considering the observations of the Madras Services Commission, invite the Public Service Commission instead of the Madras Service Commission to exercise the functions therein described.

14. You point out in your letter under reply that the enactment of the Bill under consideration would be *ultra vires* of the local legislature in the absence of an authorisation conferred by rule made by the Secretary of State under Section 96 B (2) of the Government of India Act, and you ask for the views of the Public Service Commission on the provisions which such a rule should include and the form it should take. I am to say that in the opinion of the Commission it would be advisable that such a rule should go no further than to state the point on which restrictions should be placed on the freedom of the local legislatures to make laws constituting a local Services Commission. In this view they would suggest that the rule should be in a form approximately as follows:—

The legislature of a governor's province may make laws constituting a local Services Commission, provided that—

- (1) no such law shall provide for the appointment, or removal, of the members of such Commission by any authority lower than the Governor-General in Council;
- (2) no such Commission shall be empowered to advise the local government in relation to provincial centres (other than subordinate services and special posts, on methods of recruitment, standards of qualification and the syllabus or standards of examination without prior consultation with the Public Service Commission whose advice shall be communicated to the local Government by the local Services Commission;
- (3) no such Commission shall without the general or special permission of the Governor-General in Council be empowered to exercise functions in connection with any person in the Civil Service of the Crown other than a member of a provincial or subordinate service or the holder of a special post under the administrative control of the local Government, and
- (4) no such law and no rules made under any such law shall contain any provisions inconsistent with any rules made by the Secretary of State in Council under Section 96 B (2) of the Government of India Act.

With regard to the proviso stated in (4) above, it is in the view of the Public Service Commission important that any local Act and any rules made thereunder shall not operate to conflict with the Civil Services (Classification, Control and Appeal) Rules, which are understood to be under the consideration of the Secretary of State in Council, and it would be advisable therefore that the issue of the rule at present contemplated and the introduction of the Bill in the local Legislative Council should await the issue of those rules.

15. Under directions from the Chairman in accordance with rule 24 of the (Functions) Rules, I am to forward a copy of a note of dissent recorded by Mr. A. H. Ley.

NOTE OF DISSSENT BY MR. A. H. LEY, C.S.I.,  
C.I.E., C.B.E.

I regret that I find it necessary to record my dissent from the views held by my colleagues regarding the Madras Services Commission Bill on two points. (1) In the first place I am not in favour of postponing the passage of this Bill, even if it

remains unaltered, until the question of principle mentioned in the letter from the Public Service Commission has been considered by the Statutory Commission. It may be the case that the First Despatch on Indian Constitutional Reforms did not contemplate the establishment of local service commissions. It may be the case also that the Government of India Act itself did not contemplate their establishment. At the time when the Act was framed, however, I imagine that no one could foresee precisely how the theory of provincial autonomy would develop itself in detail. There is nothing in my view which renders the establishment of local commissions inconsistent with the Act, and, inasmuch as there are, in such a vast country as India with such varying conditions in the different provinces, obvious practical difficulties in the exercise of functions of recruitment for the provincial services by a central body, I am of opinion that the establishment of local commissions is in fact a natural and desirable development. It is for special reasons, in my view, desirable in the Madras Presidency, and I feel that delay in the establishment of such a commission, even though there may be no statutory link between it and the Public Service Commission, would be against the interests of the provincial services and of provincial administration as a whole. There is no reason to suppose that there will not in practice be a liaison between the local body and the central body. Free consultation will be possible, but it does not follow that the link between the two bodies must necessarily be statutory. I must not be understood to mean that I am not inclined to favour the introduction of amendments to the Bill which will establish some connection, but only that I would rather have the Bill passed as it stands than wait until after the Statutory Commission has reported. (2) In the second place while I am not prepared to dissent from most of the amendments suggested by my colleagues, I am not in agreement with them on one specific point. My colleagues propose that it should be obligatory on the local Government to consult the Public Service Commission through the local Services Commission on the *method of recruitment* of the provincial services, e.g. whether recruitment should be by competitive examination or by selection. I disagree for the following reasons:—

- (a) The proposal would impose on the local Government an obligation in respect of the provincial services which is not imposed on the Government of India in respect of the All-India and Central Services. The Public Service Commission (Functions) Rules do not prescribe that the Public Service Commission shall necessarily be consulted on the point whether a particular service shall be recruited by competitive examination or by selection; they merely prescribe the functions which the Public Service Commission shall exercise, when once this point of policy has been determined. The determination of the policy is a matter which it may be unnecessary to refer to the Public Service Commission, and I think it undesirable to make such a reference obligatory.
- (b) I doubt whether the Public Service Commission will be in a very good position to advise on the point in so far as it concerns the provincial services. The determination of the policy depends on various considerations, in which local conditions, unfamiliar to a central body, play an important part.
- (c) The proposal made by my colleagues makes it obligatory on the local Government to consider the opinions not only of the Public Service Commission, but also of the Madras Services Commission on this matter, thus going beyond what the Madras Government have contemplated even with reference to the local commission. I think this is undesirable.



## APPENDIX.

*[Continued.]*

For these reasons I would not impose on the local Government the obligation of consulting any Commission, whether local or central on the question of the method of recruitment of the services. It will always be open to the local Government, if they so desire, to invite the opinion of the Public Service

Commission on such matters. That option is recognised in the Public Service Commission (Functions) Rules, and is in my view sufficient.

2. I request that my dissent as expressed in this note be forwarded to the Government of India.

## LUCKNOW.

Dated, 1st December, 1928.

Morning.

PRESENT :

ALL THE MEMBERS OF THE COMMISSION, OF THE CENTRAL COMMITTEE (EXCEPT MR. KIKABHAI PREMCHAND)  
AND OF THE UNITED PROVINCES PROVINCIAL COMMITTEE.

Sir IVO ELLIOTT, Bart., I.C.S., Secretary, Local Self-Government, Government  
of the United Provinces.

1. *The Chairman*: Sir Ivo Elliott, I think you are Secretary to Government in the Local Self-Government department, are not you?—Yes.

2. Speaking substantially, are the subjects which fall within your duty transferred subjects?—They are almost all transferred subjects.

3. Do they fall under the direction of one minister, or are there parts of your work which fall under different ministers?—They fall under different ministers. Local government work and public health are in the portfolio of one minister.

4. No doubt the minister for Local Self-Government?—Yes. The medical department is in the charge of another minister, the minister for Agriculture. There is a small branch (it is not a separate department) which deals with improvement trusts and is in the portfolio of the minister of Education.

5. I imagine, of course, that the precise distribution is a matter of internal organisation and can be changed without any external authority?—Yes.

6. In substance, as it seems to me, one might say that the departments for which you are head of the secretariat correspond to what in the West we might call the department of Public Health?—I understand it is much the same as the Ministry of Health in England.

7. Yes. To get the range of the thing quite clear, education, I think, does not come in your secretariat?—No, no aspect of it, either financial or administrative.

8. Do you regard it as a convenient or an inconvenient arrangement, from the point of view of efficient administration, that the range of your own work should be such that you touch different Ministerial chiefs?—From my personal point of view, I regard it as an advantage.

\* \* \* \* \*

13. *The Chairman*: I suppose one may safely say that in making a survey of the development of representative institutions one must give principal attention to the municipal boards and district boards, so far as local self-government is concerned?—Yes.

14. The Conference will appreciate that I use the expression "development of representative institutions" because that is the expression in section 84A of the Government of India Act. I should like to ask two or three questions about municipal boards. I see on page 442\* (bottom of the page) that the governing Statute is the United Provinces Municipalities Act of 1916?—Yes.

15. Do I understand rightly that as a result of that Act the system came into force of non-official, elected chairmen and the constitution of municipal bodies on the basis of an elected majority?—Generally speaking, yes. There were non-official chairmen before, but the 1916 Act introduced a general system by which, save in exceptional circumstances and exceptional cases, the chairmen of municipal boards were non-officials. It also laid down entirely new principles for their executive agency and for the constitution of the boards.

16. Let us deal with the constitution first, before we come to the chairmen. One finds it set out in some detail about page 444\*. There is a little table

at the middle of page 445\* which shows, apparently, that there are no less than 85 self-governing municipalities?—Yes.

17. A very large number?—They vary very much in population. They range, roughly, from towns of 6,000 inhabitants to the big cities with quarter of a million. They are all included in that general term of municipality.

18. I have read elsewhere in this book, I recall, that you have in the United Provinces no less than six or seven cities with a population of 100,000 or over?—Yes.

19. Out of the 85 self-governing municipalities, 75 have got elected chairmen; the other ten, for one reason or another, have not. Coming to the members, you find the vast preponderance of the members are elected members?—Yes.

20. What is the nominated element in these self-governing municipalities at present?—The number of the nominated members may be as large as seven in the case of very large cities, but is ordinarily two in the average municipality. In the case of all the municipalities the Government can nominate two members, and the balance in certain municipalities is made up by the use of nominating bodies, in particular the local chambers of commerce.

21. I see. Is the Government's power of nomination to municipalities in practice used for securing the representation of any particular element which might otherwise go unrepresented?—Yes, one of the two Government nominees is a representative of the depressed classes. That is not a statutory obligation on Government, but Government are pledged to give representation to the depressed classes.

22. And it is the practice?—Yes.

23. One other point. On that same page, I see that for these municipal bodies the system is one of separate electorates for Muhammadans?—Yes.

24. And also weightage in favour of the Muhammadan population?—Yes.

25. Still keeping for the moment to municipalities, I would call attention to page 488\*, where you set out \* \* \* the principal functions which the municipalities in fact undertake: "street-lighting, cleaning and watering of roads, general conservancy, vaccination, public health work, medical relief, markets and slaughter-houses, arboriculture and gardens, construction and maintenance of roads and other public works, and education." We can leave out education for the moment, because it is not in your department. The omission which strikes one on reading that is water-supply?—The reason for that is probably that on another page the question of water-supply is dealt with and described.

26. Page 456\*?—Yes.

27. Let us look at that for a moment. I think it is rather striking?—Organised waterworks are confined to a very few of these 85 municipalities.

28. That is what I wanted to see. Look at page 456\*. It says there: "The attitude of the urban public and its representatives on the boards towards the policy of water-supply is to-day fundamentally different from that which led to riots at Benares towards the close of the last century." That, I imagine, was due to a scruple on religious grounds?—Yes, in the case of Benares.

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[Continued.]

29. It goes on: "But, even to-day the number of towns with a water-supply system (viz. fifteen including three which have adopted it since 1921) is a very small proportion not only of the total number of towns in the provinces but even of municipalities." I read in this book that in these municipalities you have three million people?—Yes.

30. As we have been told, there are 85 municipalities, but at present a water-supply system is to be found, apparently, in 15 only?—Yes.

31. Then you go on dealing with it, and there is some rather disturbing matter at the bottom of that page: "In Benares there is no reliable plan of the distribution system and out of the twelve thousand odd unmetred connections nothing is known of more than two-thirds except that they exist"?—That is the fact at present.

32. It must be extremely difficult to gather the water-rate, then?—It is.

33. On the other hand, I think one ought, if one wants a perfectly fair picture, to turn to page 457\*, where there is a very encouraging statement about electric street-lighting: "In the matter of electric street-lighting these provinces have recently made rapid progress. Including six towns which adopted electric lighting since January 1, 1921, there are at present eleven, the lighting arrangements of which are satisfactory." Can you tell us in a sentence or two what you think would be a fair view on those two matters, the progress that has been made on the one hand in regard to water-supply and on the other in regard to electric lighting?—The progress is not really more rapid in electric lighting than in water-supply. In both cases the Government are taking an active part in encouraging boards to have electric light and waterworks. We have recently turned our attention to the towns of moderate size, between 20,000 and 40,000 population. We have put schemes before them for their consideration, giving them a general idea of how they might have waterworks and how they might finance them. Several towns have, without the stimulus from Government, themselves proposed the establishment of waterworks. The difficulty has been a financial difficulty. It is more generally understood, I think, by the population that they should pay for electric light than that they should pay for water. There is no particular objection to paying a special charge for electric light supplied by the municipality, and consequently the electric light schemes finance themselves from the very beginning. The Government provides a loan, and there is no real financial obstacle to the introduction of those schemes. The introduction of a waterworks system is obstructed by the difficulty of having to impose a water-rate; they have to realise by taxation some kind of return for the charges on capital expenditure and the maintenance charges of the waterworks. That results in the fact that no proposal comes up to the Government from a municipal board for waterworks which does not ask for a grant of, as a rule, half the capital cost of establishing the waterworks. It is not always financially possible to make that grant, and consequently the actual progress in the development of waterworks is slower than it is likely to be in the case of electric light works.

34. I see. You have mentioned the financial difficulty. So far as regards assistance from provincial funds for capital expenditure like the establishment of waterworks, or of other capital works, is it customary in this province to grant from provincial funds a substantial percentage of the cost?—No, there is no definite percentage. I could hardly say there was a customary percentage.

35. The Government does try to help, does it?—The Government tries to help.

36. Let us pass for a moment from the capital expenditure in municipalities to the current expenses. I read at the bottom of page 450\* a very striking

thing, namely, that as far as municipalities go grants-in-aid from provincial revenue are almost negligible?—Yes.

37. On the other hand, in the district boards I gather you get a very large percentage, altogether something like 40 per cent.?—Yes. That is explained, I think, in the memorandum by the different nature of the functions of the municipalities and of the district boards.

38. I do not entirely understand it. The municipalities have got their duties in regard to education as well as the district boards, have they not?—Part of the educational work inside a municipality is in charge of the district board.

39. Now I do not want to delay, because others have questions to put, and we are only just clarifying and picking out things, having studied this document and digested it; but on page 473\* there is a passage headed "Conclusions as far as the municipal boards are concerned." It begins by dealing with some of the larger municipalities; it speaks, for example, of the good position held by Cawnpore owing to good administration, and refers also to some other large municipalities. Then it goes on to deal with the smaller municipalities in para. 325, and the conclusion in para. 326 on page 474\* is what one would expect, that the majority may be regarded as lying between the best and the worst, as majorities usually do?—Yes.

40. And I see you say that it shows that there is at any rate something in which the East is like the West: "The average board, while desirous of progress, is not equally desirous of paying for it"?—Yes. That I have explained in the case of the waterworks. We hope by our waterworks proposal to test the boards' readiness to pay for their progress.

41. I will ask you about central control in a moment, but let us just take the next compartment, which is the district boards. I am passing immediately to page 481\*, because I want a few corresponding facts. First of all, I read on page 481\* that there are 48 district Boards?—Yes.

42. May I put a point that strikes me rather? Here you have 48 district boards and 85 municipalities; that is a total of 133 bodies. How far is the department at headquarters provided with a staff that can really survey the work of as many as 133 bodies?—In my own personal opinion it is entirely inadequate to supervise sufficiently closely the affairs of so many bodies.

43. If we may have regard to the experience and the methods that prevail in some other parts of the world, local self-government and local responsibility are by no means inconsistent with the effective survey and the occasional control or stimulus of the central authority; I am sure you will agree about that?—Yes.

44. One is interested to see how far, in the present system, the central department is really so organised that it can do that. You do not think you have a sufficient staff, I gather?—I do not think the staff is sufficient.

45. Do you mind telling me who does it. I mean, of course, apart from the minister?—The actual staff at headquarters consists of two officers under the minister, one secretary and one under-secretary, who is a member of the provincial service.

46. They are yourself and another gentleman?—Yes, that is the headquarters staff.

47. Do you have a staff of inspectors? what we should call local government inspectors?—Not directly under the Ministry. The functions of inspection are exercised to some extent by the local district magistrates, and by the commissioners, who are in charge of the divisions. They supplement the headquarters staff in their general control of the boards.

48. Now just let me get the corresponding facts in connection with the district boards which I had

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[Continued.]

from you as regards the municipalities. It is convenient to know. I see that the Statute this time is the District Boards Act of 1922, is it not?—Yes.

49. And without delaying to read it, my colleagues will notice that on page 481, paragraph 338\*, the main features of the Act are set out, such as the complete disappearance of the official element including the district officer, elected non-official chairmen, relaxation of government control, and so forth. Those features, I may take it, are there carefully defined and set out?—Yes.

50. The district boards, as I make out, deal with areas containing an enormous population, 94 per cent. of the whole population of the United Provinces?—Yes. One district board deals with the affairs of 3,000,000 people. The ordinary district is some 1,700 square miles, with eight or nine hundred thousand people.

51. 42 millions of people spread over 48 districts?—Yes.

52. Now just turn to page 481\*. This seems to me to bring us to one of the central criticisms. You set out there this. You say that in the case of the district boards the board itself, chairman, vice-chairman, secretary and staff and so on, form the executive, and that the Act contemplates the whole board as an administrative unit. That strikes one as rather remarkable?—The Act there differs from the Municipalities Act, and the executive powers are directly exercised by the district board. They do not do the executive work, but their decisions are in many cases executive decisions. In some cases the members have duties as inspecting officers themselves on behalf of the board. There has been a practice by which members have carried out work, have built small schools, have repaired unmetalled roads, directly, themselves, on behalf of the board. That practice of carrying out work we have found it necessary to stop. It has led to abuses.

53. What strikes one in thinking of it and contrasting it with municipalities, is this. For instance, contrast page 483\* with page 448\*. You point out on page 448 as regards municipalities, that municipalities can work through an executive officer?—Yes.

54. Which one would have thought was the natural way. Is there nothing corresponding to that?—There is no corresponding officer in the boards' service to whom certain functions and duties are definitely allotted by Statute. The powers of the executive officer in the municipalities are laid down by a schedule appended to the Municipalities Act. The District Boards Act is different in that respect.

55. Then to carry one's mind back to the old system, I should conceive that in the days when there was an *ex-officio* chairman of a district board, a collector or a deputy commissioner, the actual administration was much more concentrated in his own hands as chairman, and the members of the board over which he presided did not take as large a part as they do now?—Yes, that was the case.

56. Then I suppose as long as you had the *ex-officio* chairman, he was in a very strong administrative position because he had got his own subordinates in the district who were always available?—He had a large and widely distributed revenue staff for the collection of the revenue who were available to inspect and to watch the execution of work that was nominally done for the district board.

57. Then when the transfer takes place, of greater responsibility and to a non-official, elected chairman, it seems to me off-hand that the newly constituted district board has a very difficult task thrown on it because it would appear to lose the services to the full extent of this well-organised official administrative body?—That is the case, and the effect of that is seen in the difficulty, which the district boards find in getting their work done, and in making progress.

58. You had better just refer me to the pages

which deal with the financial side of the district boards. I see there is a useful passage on page 486\*?—Page 492\* deals with finance generally.

59. Just let us take page 486 as we go. You point out first of all that there is a local rate which, as you say, used to be 5 per cent. of the annual value of the estates?—Yes.

60. If one was to assume that the land revenue is 50 per cent., that would mean, would it, that the addition is made by way of a surcharge—of a *centime additionnel*?—It is practically that.

61. Who collects the rates?—It is collected by the revenue department of the Government, and is paid to the district board.

62. Apparently, then, it is a sort of 10 per cent. addition to the land revenue?—Yes.

63. Then you go on to say: "even though the new Act permits of its being raised up to 6½ per cent. no board has yet enhanced it." I gather from something I have read that they could not go up to 6½ per cent. unless they also imposed some local burden on what you may call the industrial or professional classes?—Yes. In paragraph 3 on page 487\* you will see it contemplates this tax as a preliminary to an enhancement of the local rate.

64. I suppose the idea of that was that they ought not to put a further burden on the agricultural interests without getting some contribution from others?—Yes.

65. Then just below, on page 486\*, you say that governmental grants in 1918–19 aggregated 31 lakhs, which is equal to 25 per cent. of the total income, and by 1926–27 they rose to 87 lakhs, and accounted for 45 per cent. of the boards' total income?—Yes.

66. It is very striking. Now would you just tell me this. In view of the fact that so large a proportion of the expenditure of district boards is met out of provincial money, is there an effective control exercised by those who make the grants-in-aid?—The greater part of the Government grant consists of a grant for education, mainly for primary education. There is a control over educational expenditure exercised through inspectors of education, and in each district through a deputy inspector of education, who is a Government officer appointed to the district by Government, but is in the service, or in the employment, of the district boards. That system acts as an inspectorate for the educational portion of these grants-in-aid. So far as the grants-in-aid are devoted to medical purposes, there is a somewhat similar system of inspection, because the medical administration of the district is in the hands of a Government officer called the civil surgeon, who has the power of inspecting the local hospitals. He also both works for the board and yet is a Government officer. He is not under any disciplinary control by the board, but he carries out their work. Therefore for medical grants-in-aid there is a system of inspection, though it is admittedly imperfect, the reason being that the civil surgeon with a large hospital at a headquarters district has not the time to inspect the local hospitals out in the country. In the matter of roads, so far as they are under the district boards there is no inspectorate by Government, though a scheme of inspection is contemplated as part of a system by which larger grants-in-aid will be made more generally to the boards for the maintenance and improvement of their roads; but so far as grants-in-aid are at present made to the boards, there is no inspection of the way they use the money.

67. Lord Burnham would like to know, and so should I, what proportion of the road expenditure is provided by grants-in-aid?—Under the existing system, which dates from 1914, there is no established percentage or no established method of grants-in-aid for roads. A few of the backward districts receive grants for their roads. There is no general system of grants-in-aid.

68. May I suggest that perhaps the figure will be



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found on page 488\*, the middle paragraph (paragraph 351), last line but three, "one-fourth of that on roads was financed from grants made by Government"?—That is rather an illusory fraction, because in the case of many districts they receive no grants-in-aid at present for roads at all. That was the result of an elaborate system of grants which the Government introduced in 1914, which is now out of date, and which is about to be replaced. These grants are the relic of the financial system of 1914.

69. If I may just concentrate on the point which rather presses upon my whole mind at the moment, it would seem to me that while obviously some form of control and stimulus is necessary under any well-organised system of local self-government, there may be a good deal of difficulty in that control and stimulus as things are, taking the form of intervention at the suggestion of the collector or the commissioner. It may be—I do not know, but I can imagine, that the minister for Local Self-Government may feel that having started on a system of local self-governing institutions, the local bodies should, as far as possible, be encouraged to face their responsibilities themselves; but if there is a system of grants-in-aid administered from head-quarters, I think some of us would rather have thought that it was perfectly right to use that method as a method of securing satisfactory administration by the different local bodies?—It is certainly recognised that if grants-in-aid are given by Government, Government must see that they are properly expended, and they must therefore give greater attention to the inspection of work done with those grants-in-aid. An example of that is found in our new proposals, which are just being introduced, for the improvement of roads. Government have reclassified the roads, separating those roads which are under the district boards into roads which are of some general interest (as, for example, roads which connect one district headquarters with another) and roads which are of purely local interest. Government propose to give a grant-in-aid to the boards of half the cost of maintenance of the former roads, and the expenditure of that grant will be under the control of the district boards. Their officers and their staff will do the work, but the Government inspecting staff will examine the work afterwards and see if it has been properly done. We are now organising that grant-in-aid system in the case of roads, and the result will be organised inspection.

70. Who will do the inspection?—That has not yet been decided; probably the Public Works department staff.

\* \* \* \* \*

71. *Mr. Narishorn*: On page 445\* you say: "The 1916 Act contains no provision (corresponding to that incorporated in the District Boards Act of 1922) restricting the Government's power of nomination so as to enable a member of the backward and depressed classes to be ordinarily selected." What does the 1922 Act provide in regard to the nomination of members of the depressed classes?—The 1922 Act for district boards provides for a representative of the depressed classes ordinarily being one of the two nominated members. The older Act for the municipal boards does not provide that, as is said here, but the Government have given a pledge that they will ordinarily nominate a representative of the depressed classes if a suitable man is forthcoming. Since the pledge was given that has been kept constantly in mind, and when nominations have been made they have been made in accordance with that pledge.†

72. *Mr. Cadogan*: On the subject of external control, I see you say on page 452\*: "If a board persistently defaults in the performance of its duties or exceeds or abuses its powers, Government can dissolve or supersede it for a specified period." A little lower down the page you say: "In case of

"default in performing a duty imposed by any enactment, the local Government in the case of a city, and the commissioner in other cases, can fix a period for its performance." On pages 473\* and 474\* you give the record of the larger boards and the smaller boards, but I do not gather from that whether there has been frequent occasion to exercise that control?—In only one case has Government called on a municipal board to explain why it should not be superseded. That is the larger power. In no case has this power actually been exercised in the case of municipal boards. I am not sure if I caught your question correctly.

73. The second part of my question was this. There is another form of control. On page 452\* you say: "In case of default in performing a duty imposed by any enactment, the local Government in the case of a city, and the commissioner in other cases, can fix a period for its performance." Has that ever been exercised?—That has never come to the point of performance. The Government have on several occasions written to a board and pointed out that they were defaulting, that they were failing to carry out certain duties, and calling on them to perform those duties within a certain time. They have responded to that warning except in one case, and there, when the board did not respond, we had to take their explanation as to why they should not be superseded. As far as I know and can recollect, the Government, the commissioner or the district magistrate has never actually performed the duty directly for the board. We have used that section, though, to require a duty to be punctually performed.

74. *The Chairman*: It becomes a threat, or perhaps we had better say a lever?—Yes.

75. *Mr. Cadogan*: Is the same thing true in the case of district boards?—In the case of district boards, one board has actually been superseded. We have also used this power of calling on boards to perform their duties within a specified time, but in no very important case.

76. *Lord Swathcona*: I have one question on district boards. On page 482,\* at the end of paragraph 340, the book says: "Only in case a board fails to elect a chairman can the local Government nominate one." Is that a frequent occurrence?—Not in the case of a district board. I have known it happen in the case of a municipal board, when there was strong party feeling and the parties were equal.

77. But not in the case of district boards?—In the case of district boards I think it has never happened.

78. One question about panchayats. On page 511\* in the middle of paragraph 397, you say: "The district officer also appoints the *sarpanch* or president of the panchayat." Is that a regular custom in this province?—It is.

79. I do not think it is the same in other provinces, as far as I know?—The idea is that the district magistrate, or one of his superior subordinates, should visit the village himself and should practically hold an informal election. He should gather the people together and ascertain their wishes about the *sarpanch* and then select the *sarpanch*. It is not intended, and it is not the practice, that he should do so without consulting the chief inhabitants of the village.

80. *Lord Burnham*: \* \* \* The results of the changes in local government are summed up on page 45,\* about the middle of the page, in the lines: "There has undoubtedly been much deterioration in local self-government, much jobbery, and much injustice." What have you to say about that sentence?—I can say no more than is given in the general conclusion of the Government on these particular chapters on the district boards. I think on pages 506 to 510\* you will find material which corroborates that conclusion.

81. You refer to page 506?—Yes, that indicates

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the weakness of the boards, and a certain measure of deterioration.

82. I was interested in what you had to say about the financial arrangements of local government, and I see you say, on page 470,\* that the Government's policy has been one of non-interference; and you mention the application of the municipal board of Muttra, which you say "was rejected on the ground that the amount of its uncollected dues was just about equal to the amount of the grant-in-aid for which it had asked in connection with its water-works." Is that a common feature of local government in this province?—The failure to collect dues is a very general feature in municipal boards. We have a regular statement showing the amount of uncollected arrears. Then, when the arrears are considerable, the Government point this out to the board and direct them to improve their collections. We have had one very satisfactory result to which I could point, the case of the Allahabad municipal board, which has very much improved its collections. After a great deal of pressure and after this had been pointed out constantly for several years, that board has learnt the necessity for improving its collections; but failure to collect dues is still a very general feature of the municipal administration. It occurs less often in the case of district boards, owing to the different nature of their sources of revenue.

83. Might not one argue from that that the system of entire abandonment of control of local self-government has not altogether worked well in this province?—I think that system itself may be described as having been abandoned. I do not think the position the Government would take up is that there has been an abandonment of control. The Government do not want to interfere if they need not do so, but they certainly do interfere if necessary in such matters as I have described, such as the failure to collect dues.

84. But I understood you to say in reply to the Chairman that you were just setting up new rules in regard to the inspection, by officers whose class has yet to be determined, of works in return for grants-in-aid?—Yes.

85. That has not been done yet?—Not in that particular department of roads. I described at the time that there was some system of inspection in the case of the very large educational grants, and also a system of inspection (though it is not a perfect system and has to be developed) in the case of hospitals. The roads have been, it might be said, abandoned until recently—the control over the boards' expenditure on the roads has been lacking.

86. I do not, of course, want to go into details with regard to education, but when you speak of inspection in regard to education, has not it been to a large extent inspection by officers appointed by the local authorities?—No, by officers appointed by the Government, who perform the duties for the local boards. The whole inspecting staff of the district boards for educational purposes is a Government staff. The deputy inspectors of schools, aided by a certain number of so-called sub-deputy inspectors, inspect the schools, and they are Government officials.

87. Colonel Lane-Fox: From what you have told us, it is quite easy to see that any deterioration in the work of district boards and other bodies would be due to their losing the help of the official element which they had before?—Yes, to the fact they have not an effective executive.

88. And for the moment, of course, that leads to deterioration?—Yes.

89. Do you see any real beginnings of an improved efficiency, or is it getting worse?—I do not think it is getting worse. That is my personal opinion. I think the causes of the failures are being sifted out more clearly, so it is more possible now for Government to remedy those failures. At the beginning there were too many changes. The change was a big one, and it was impossible to see the lines of control; everything seemed to have gone. But now,

I think, gradually the departments of control are being separated and the possibility of judicious Government interference is becoming established, so that I think the deterioration, such as it is, can be arrested.

90. Is there any sign that public opinion is beginning to be brought to bear and more interest taken by the electors?—I think there is a public opinion, but it does not know how to express itself. I remember a case in my own district where the chairman of the district board said to me that he did not like going out in an *ekka* (or whatever the carriage was) on the roads, because people came to him and said, "Chairman sahib, look at these roads!" It worried him. That is incipient public opinion.

91. But would that make itself felt at election time? On what do the local elections generally turn?—I think the elections turn too much on personal rather than administrative grounds. Whether the board has done well or ill is not considered at the time of the election; the elections are personal rather than decided on the record of the board. That is naturally a personal opinion of my own.

92. That form of public opinion—does not express itself at an election.

93. I am not quite sure what opportunities you have of levying any local taxation. Have you any local tax on motors, for instance, or petrol?—No. The petrol tax is not local or provincial.

94. There is no relation between the petrol tax which prevails in India and the local administration of the roads?—No.

95. Has any fresh source of taxation been discussed by these boards, by which they could have more money to use on their roads?—Several boards have introduced a new tax, this tax on circumstances and property, which provides them chiefly with funds for improving the roads. There are no taxes assigned to the maintenance of roads.

96. Who actually carries out the repairs on the roads? Is it let out to contract, or is it done by officials of the district board, or what?—It is done by small contractors, as far as I understand, who collect the road metal and do the actual ramming and consolidation on the road under the supervision of the district board engineer and his subordinate overseers. It is a curious system of combined contract and direct supervision.

97. Of course, that is a system that is open to great possibilities of, shall we say, corruption?—There have been a number of complaints that it has resulted in less metal getting on to the road than has been paid for.

98. And I suppose the unsuccessful contractor sometimes comes and tells you what the successful one has done?—Yes.

99. Major Atlee: It seems to me that the arrangements for central control have been rather chaotic. I gather that there is no real expert inspection and advice to local bodies, whether municipal or district board?—There is no expert advice in the case of the district boards. There is expert advice in the case of one department of municipal work, and that is the waterworks and drainage. In chapter XIII of this book\* you will see an account of that expert agency, the Public Health Engineering department.

100. That is technical advice on a particular subject, but there is no general advice and direction on the technique of local government at all?—None.

101. Formerly, I gather, it was left to the Collector, but the collector in future will not have had experience of local government himself?—No, there was no more expert advice in the old system.

102. Except that he carried on for them; he did not know anything special about it?—Nothing.

103. As far as I can see, there seems to be a certain vagueness in the position between actually carrying out local administrative work and inspection. I gather from what you say that in some cases the inspector is at once the inspector of the central Government, but carrying out duties for the local authority?—Yes, that is the case.

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104. Therefore he is really inspecting as Tweedle-dum the work that he does as Tweedledee?—Yes.

105. Can you explain to me a rather curious thing on page 485\*? It is with regard to delegation: "Another amendment of the District Boards Act now enables the boards to delegate their powers, duties and functions to certain government servants of the medical, public health and education departments." Is it not a rather extraordinary thing for a local government department to delegate its powers to a central department? How is that done?—That was a recent amendment in order to get over the particular difficulty that they could not delegate these powers. The boards cannot afford to employ highly qualified doctors in charge of their hospitals, or highly qualified public health doctors to supervise their sanitation. The Government has appointed those officers in the interests of the health of the country, and as all medical and all public health work is carried out through the district boards, those Government officers form the natural agency to carry on medical work and carry out public health work. Therefore the boards, by what may be called financial pressure, have to use this Government agency for the work which is entrusted to their general guidance. It is a most anomalous system. It is so difficult that I find it very difficult to reduce it to the form of a rule. There is no rule at present, no statutory rule about this delegation; but it works.

106. There was the formation of *tahsil* committees. I take it that that was an attempt to give some sort of governing body to a smaller unit than a district?—Yes.

107. I gather that they had no money and no specific duties, and they rather fell through?—I think that they have fallen through for other reasons. I am not quite sure that a *tahsil* as a subdivision of a district really meant anything. They are accidental divisions; they vary very much in size; they have no life or entity of their own, and it always has to be remembered that the district board is the successor not only in fact but in sentiment of the collector. The custom of the district is to concentrate the control at district head-quarters. These outlying divisions have not, therefore, had anything like a vigorous life.

108. Just a word as to the staff. Is the secretary of the district board a qualified person in any way? Is there any qualification laid down?—No, there is no qualification.

109. Is there any minimum salary laid down?—No.

110. Is there anything to prevent anyone being jobbed up to it?—When an entirely unsuitable man was appointed as secretary, the commissioner would certainly draw the attention of the board to the fact, and put some kind of pressure—at least, the pressure of writing a letter pointing out that the man was unqualified; but at present there are no rules determining the qualifications of secretaries of boards.

111. Has the Government ever taken steps to advise local boards, or train them in the general principles of local government, and so on?—I think I may say that the necessity for doing that is now being recognised. The habit has to be created of doing that. We are doing that particularly in the case of roads, advising the local bodies, and helping them to face their responsibilities. The necessity for doing that is now recognised by Government.

112. I suppose it would be fair to say that when this increase in local self-government came about, it was a particularly difficult time: prices were high, I suppose, and generally it was difficult?—It was particularly difficult.

113. *The Chairman*: On that point, Major Atlee, we all wish to state the thing as we see it in the fairest way. There is another thing \* \* \* that must always be remembered. It seems to me that in passing from the old system to the new it was not

generally realised what a very difficult task was being thrown upon the new bodies at the beginning?—That is so.

114. It looked as though all that was happening was that you were substituting an elected chairman for an official chairman?—Yes.

115. But in fact you were doing a great deal more than that, because by taking away the official chairman you were also taking away the machinery by which the official chairman had worked?—Yes.

116. And it seems to me, therefore, that a very difficult task was thrown on these local bodies in the first instance?—Yes.

117. And I should not have expected them to go very well at first. The important thing, I think, is what Colonel Lane-Fox was asking you—whether there are good grounds for thinking that the thing is being pulled together, and is improving. I should not be at all surprised to find that at the start it was much more difficult than it was?—Yes.

*Lord Burnham*: I am sorry to say I do not quite follow you in that, sir. I thought it has been the district officer's duty to give his advice and put his machinery at the disposal of the board, whether they took it or not.

118. *The Chairman*: I may be wrong, but I would like Sir Ivo to tell me. After all, we speak of a district as though it was a small English county, but many of them are very large areas; they contain perhaps a million or two or three millions of people. In the old days the collector, sitting at head-quarters, had got in all parts of that district, as I understand it, his own official subordinates?—The practical difficulty of getting round the district is a very great one; it is difficult to go round and see things. The district board member may know his own constituency, but he will not see the rest of the district, whereas the collector and his staff saw the whole of the district. That is a very great difficulty for the boards; they cannot see things.

119. Forgive me for interrupting you, but the point I want to get clear is whether I was not right in thinking that under the old system it was not merely that you had an *ex officio* chairman, but you had a chairman who, with his own subordinate staff, was constantly in a position to inspect *this*, and to see how *that* was getting on. It seems to me that when you sweep that away and substitute what is substantially an elected board and an elected chairman, it is not merely substituting one kind of chairman for another, but this machinery which the official chairman had is to a large extent less available?—Yes.

120. Am I right or wrong about that?—That is quite correct. That is the explanation.

121. *Lord Burnham*: I should like to ask this question, because it does not bring conviction to my mind. Is not it still the duty of the collector to give advice and to put his machinery at the disposal of all such local authorities as will avail themselves of it?—No, it is not his duty to utilise the staff which is intended to be collecting revenue on doing work for the district boards. It is the duty of the collector to know what the district board is doing, but it is in no sense his duty to do the district board's work for them.

122. Nor to advise them?—That may be his pleasure. If he likes to advise them he may. If they like, as very many of them do, to consult him, they can. The chairmen of the district boards are, I think, constantly talking to the collectors about their difficulties, but all that advice is informal. Apart from that, the district magistrate has a certain general duty to the Government, to inform the Government through the commissioner of the failures of district boards to perform their work, and he has certain duties of interfering if the district board actually do something that injures a class or community, or causes danger, or is likely to cause a breach of the public peace. He has that duty, but his duty of advice is a voluntary and informal duty.

123. *Major Atlee*: Might I ask you this. Broadly

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speaking, in pre-Reform days the collector regarded the group of functions which we will call local self-government as part of his general duties, and he had a more or less generalised authority throughout the districts, and now they have been separated: he has taken the staff and gone one way, and they have taken the duties and gone the other?—Yes.

124. *Colonel Lane-Fox*: And the collector becomes less responsible as he has less experience of local government?—The collectors will have less experience.

125. *Mr. Srivastava*: You said that municipal boards came up with applications for loans plus a grant always, and as you could not give them a grant these applications had to be turned down?—I would rather say, not turned down, but postponed. All grants cannot be given in the same year; they have to be fitted in with our financial position.

126. Do you know cases of deserving municipalities who did not want a grant, and yet loans were refused to them for very important works like water-works, roads and sewers?—I know of no case where a loan has been refused. A loan cannot always be given in the particular year or at the particular moment at which the municipality asks for it. That is owing to the financial arrangements of the provincial Government for obtaining loans. Unless we have budgeted provision for the loan, and have already obtained the necessary loan fund, we cannot make loans to the municipal boards.

127. I refer to the case of the Cawnpore municipality. They were very badly in need of an extension of waterworks, drainage and roads, and for a number of years they could not get anything out of you, although they had a perfectly business proposition before you. They did not want a grant; they just wanted a loan, and they could not get it?—There is one condition which the Government examine rather carefully in the case of a loan, and that is whether the municipal board is in a position to pay the loan charges. If a municipal board has not funds enough to pay the interest and sinking fund charges of the loan, they will not get the loan.

128. The reason given, I believe, was that the Cawnpore municipality was so very well off that they could finance these works from their own revenues?—I am not aware of any loan being refused. Why should it be?

129. That was the reason given in the case of Cawnpore?—I know that the Cawnpore municipal board has carried out works from revenue, but not, as far as I recollect, on pressure from Government.

130. Of course, we felt in Cawnpore that capital works, which are works for posterity, ought not to be financed out of revenues, and that it was the duty of the Government to give loans for such works, where they could show that they could pay the sinking fund and interest charges?—I always understood that the financing of some of these drainage works at Cawnpore out of revenue was the action of the municipal board itself. There is certainly, speaking of the department as controlled by the minister at present, not the slightest reluctance to arrange for a loan for a municipal board which is in a position to pay the loan charges, and when the loan funds can be provided by the Government itself through the budget. There is no reluctance.

131. My point was that in this case that was the reason given by Government, and that is why Cawnpore municipality was compelled to finance some of these works out of the revenues, which they regarded as the wrong procedure, but since they could not raise a loan of their own, they had to do it.—It is not a case of which I can recollect any detail, because I entirely agree with the view of the Cawnpore municipal board on this question, as you are aware.

132. On page 510\* of your second volume of the book you say that the district boards have to contend against great difficulties, amongst which is the defective nature of the legislation. Now, what are

those defects in the legislation?—I think some of the questions which I have endeavoured to answer to-day will show one side—

*The Chairman*: May I suggest, Mr. Srivastava, that the reference must be, I think, partly to page 483.\* It is there describing the District Boards Act, in the middle of the page: "The Act contemplates the whole board as an administrative unit and the list of its powers and functions, very few of which can be delegated, is a large one. This conception has proved to be fundamentally wrong." I cannot help feeling it is dealing with that.

\* \* \* \* \*

133. *Mr. Srivastava*: The main thing here seems to be that they have not got a strong enough executive, is it not?—That is it, yes.

134. Now, what have you done to provide them with the machinery about which Sir John was asking—the machinery from the point of view of administration?—We have not provided them with the machinery of administration. That is exactly why you are complaining of the Act—that the Act is defective.

135. Would you recommend that the Act be changed accordingly?—I think the Act could be improved on those lines.

136. Will that get over a great many of these defects from which these boards are suffering?—Any measure which could give the district boards a better staff, a more qualified staff, would help them to remedy these defects.

137. You stated that the great defect in these district boards is that public opinion does not know how to express itself?—Yes.

138. There is a suggestion made by some people, amongst which is the Chamber of Commerce in Cawnpore, that these district boards should have an indirect electorate from the village panchayat. Do you think that would get over this difficulty?—I think the same people would be elected. I do not see how that would add any more in the expression of opinion. I mentioned my feeling on the subject, and that is that elections are to such a large extent personal.

139. But it would establish points of contact with every village practically when the village panchayats become the electoral college for the district boards?—It might strengthen the feeling in favour of a better local administration. I cannot say that it will make very much difference. It is a question of habit really.

140. You said that hospitals and schools which are run by the district board are in a way controlled by the Government through various agencies?—Yes; by Government officers.

141. Have any very glaring defects been pointed out by these people?—I cannot speak about education which is not one of the departments in which I work. But about hospitals there has been a very marked tendency to provide hospitals with inadequate equipment. I know that a number of things connected with hospitals require a lot of expenditure. The boards have been backward in attending to them. I have also had very serious complaints about the supply of medicines to the rural dispensaries. That is no doubt a question of funds.

142. In what way do you think these hospitals can be improved? I mean in what way could you provide funds? It is all a question of rupees, annas and pies, I take it?—The memorandum sets out the taxes which the boards could impose, but have not imposed.

143. You refer to the difference between the 5 per cent. and the 6½ per cent.?—Our estimate is that the tax on certain things if generally imposed would add 25 lakhs to the boards' revenue. I may state that their total revenue is now very nearly 190 lakhs. 25 lakhs might be added by the tax on circumstances, and another 25 lakhs might be added by the increase of the rate from 5 per cent. to 6½ per cent. These are



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the resources with which the defects could be met by the board.

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144. *Khan Bahadur Hidayat Husain*: I will take the question of the executive first. Is it your opinion that the executive suffers because it is swayed by personal considerations of the chairman and the members of the board?—I think it does.

145. Do you not think that it would be better if the executive services of these boards were provincialised? That is to say, the point is this. The secretary, the executive officer, the health officer, the inspector of education or superintendent of education, whatever you may call him, all these services were provincialised and placed in charge of the ministry of Local Self-Government. Their appointment, promotion and transfer are made by the ministry on the recommendation of the boards?—I am not prepared to say yes or no to that question. There are advantages and there are disadvantages. The result of that would be to make the staff serving under the boards too largely independent of them, and I have always seen for myself the danger of that. But undoubtedly we could secure a better staff if they were provincialised.

146. At page 509\* of Volume II of your report you have said: "The standard of administration has remained low. Meetings have often been unbusinesslike, and discursive debates only too common. Communal friction has come to the surface in many districts—mainly in connection with communal representation in the boards' services and questions of script and slaughter houses." My point is this. Do you not think that all these questions could be avoided and administration of local bodies improved considerably if these points had been set at rest by an Act of the local legislature?

*The Chairman*: I think it is very difficult to pass a Statute that meetings shall not be unbusinesslike and that there shall not be discursive debates. (Laughter.)

147. *Khan Bahadur Hidayat Husain*: I only read out the whole statement there. What I meant to refer was only in regard to communal representation in the boards' services, and slaughter houses. Those are the points on which main differences lie on the boards' working. Could not these be set at rest and instructions to boards improved upon if all these points had been settled by an Act of the local legislature?—I do not think so. I think they are largely administrative points. The district magistrate has the power of interfering if some resolution causes injury to a class or a community, and I think he has exercised those powers and has interfered with effect in some of those questions of slaughter houses.

148. With this difference, that they have not disappeared so far?—If a district board closes a slaughter house so as to deprive a class or a community of reasonable facilities for obtaining meat, the district magistrate has power to intervene.

\* \* \* \* \*

150. *Dr. Shafaat Ahmad Khan*: One more question, sir. At page 474, paragraph 326 of Volume II of the report you say: "Their work has been marred by communal feeling in regard to services, slaughter-houses and the Urdu script." Is this communal feeling widely spread among the local bodies?—I suppose no more widely spread among local bodies than it is in the whole province. The local bodies reflect the feeling of the province.

151. Do you think this communal feeling is due to the maintenance of separate electorates in these bodies?—That is a question which would be rather beyond my competence to answer. Nor is it a question which is certainly confined to the Local Self-Government department.

152. What in your opinion is the chief cause of disputes about the services in local bodies? Is it due to the lack of any statutory rule with regard to

the fixation of percentage of Hindus and Muhammadans? There are disputes about services in most local bodies. There are no percentages fixed. Do you think that it will go far towards removing these differences if a certain percentage is fixed in local bodies?—I think it would possibly be improved. Any restriction on the power of discussing their appointments must decrease the internal friction in the body.

153. What is your opinion with regard to the institution of a local services board that will select various important officers for the various bodies out of a panel which might be suggested by an independent authority?—We have felt the need certainly for some method of controlling or giving qualifications in the cases of more important officers of boards. It is possible that a Services Commission on the American model might improve the quality of the staff and might be a preferable alternative to the suggestion which was made a little before of provincialising the services.

154. You prefer this?—I see considerable difficulties about provincialising the services. It makes the officers too independent of the boards, and I think there might be distinct advantages in a Services Commission which would handle these questions of appointments.

155. *Lord Burnham*: And dismissal?—The Commission could deal with the question of major punishments.

156. *Lord Burnham*: What about medical officers in the Local Self-Government department?—Our medical officer here is a Government servant. He is entirely under the control of Government. He cannot be punished by the board. But there are officers directly under the boards whose cases of punishment and dismissal might be dealt with by this Commission.

157. *Dr. Shafaat Ahmad Khan*: In the chapters on Public Health and Medical department it is mentioned that the hospitals are badly equipped, there is no standardisation and that the servants employed are not experienced and sometimes are ignorant. Do you agree with this view?—I do as a general proposition to which there are many local exceptions.

158. What is your constructive suggestion for removing these defects?—My personal view is that some of the most important hospitals in the big cities should be administered by the province; they should be directly under the Medical department and should be financed by the province, and I think as regards the remainder the Government are contemplating an improvement of the staff through grants-in-aid of the resources of the boards.

159. I would put one more question. You say there was no machinery provided for administration in the District Board Act of 1922. What machinery would you suggest for an amending Bill to amend the present District Board Act?—The obvious line I think is to copy the Municipalities Act, or the Acts from which the municipalities have come into being, and to appoint an executive officer who should have certain qualifications and should have certain statutory powers. There is a clear precedent for that in the Indian Municipalities Act.

160. Will that be enough?—If that were combined with advice from Government and scrutiny of the actions of the boards and inspection, I think that would be enough.

161. *Babu Rama Charana*: Will you please give your opinion as to whether one member who is ordinarily nominated to represent the depressed classes in the district board is enough?—I did not hear the question. Will you please repeat it?

162. My question is whether one member who is ordinarily nominated by Government to represent the depressed classes in the district boards produces any effect in favour of the depressed classes? Is he enough to represent the depressed classes?—I could not answer that. I have never seen the members at work. I have often wondered what the single member of the depressed classes actually does on the Boards, but it is impossible for me to guess what influence he at present exercises. Consequently I

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[Continued.]

am not able to say whether there should be two or more members.

163. *The Chairman*: I gather the point that you raise for the consideration of the Conference is whether that representation of the depressed classes is adequate?

*Babu Rama Charana*: Yes.

*The Chairman*: I might say that since Mr. Harts-horn put this question I have asked Mr. Sloan about it and he has let me see the District Boards Act, section 6 of which says "The Local Government may nominate not more than two persons who shall not be Government servants as members of the Board," and so on. "One of the nominated members shall ordinarily be selected from among the backward and depressed classes." I gather you raise for our consideration the question whether there ought to be a larger representation or not?

*Babu Rama Charana*: Yes.

*The Chairman*: I am much obliged to you.

164. *Mr. Desanges*: You know that Government give large loans to municipal and district boards. What protection has the Government got for the money loaned to these bodies against mismanagement or embezzlement? I take it there have been cases of embezzlement?—The loans are almost invariably made for large engineering works, which are inspected.

165. I might save time by putting the question this way. You have an audit called test audit. Would it not be better if you had audit by an outside body of a month's accounts in the year?—I see no special advantage in that. Our audit service is quite good so far as I understand.

166. If you had a month's accounts audited, would that not reduce chances of embezzlement and conduce to better management?—I do not think so.

167. One other question as to the district boards. You have a large number of Indian Christians in the districts in connection with the Missions, etc., but there is no provision for their adequate representation on district boards, is there?—The number of districts where the Indian Christian community is strong in the rural area must be comparatively small. In any other case it is open to the Christians to make the suggestion for the consideration of the Government, that the Government should nominate an Indian Christian to one of the posts on the district boards to which Government can nominate. Government would consider that.

168. *Kunwar Bisheshar Dayal Seth*: You said that elections to local boards are held on personal grounds. What are your reasons for holding such opinion?—That is the impression one gets by the nature of the complaints both before elections and afterwards. The preparation of electoral rolls brings Government a very large sheaf of complaints, which it is very easy to read or interpret as complaints on personal grounds.

169. Complaining against the action of any particular authority?—Yes, their own personal interests not being sufficiently served.

170. Do you find there is any change in this practice, or has it been uniform since the new Act came into force? You say that elections are held only on personal grounds. Is there any change in this respect?—I have not sufficient experience of elections to say that.

171. Then it is only your observation?—It is an observation; an impression.

172. You have no definite grounds on which to say that?—No.

173. *Raja Kushalpal Singh*: Is it not a fact that important municipalities desire to augment their income by the imposition of taxation and that the Government of India refused sanction to the imposition of those taxes? For instance sanction was not given to levy a tax on passengers?—There have been cases where a town had been anxious to levy a tax and the Local Government has seen no objection to it. But the Local Government has under the existing law to obtain the sanction of the Government

of India, and it has been unable to obtain that sanction.

174. *The Chairman*: You mean a terminal tax on passengers?

*Raja Kushalpal Singh*: Yes.

175. *Mr. Desanges*: Is that not felt to be a grievance by the municipality concerned, the withholding of the sanction by the Government of India?—Sanction to that tax has been refused by the Government of India.

176. Has it been felt to be a grievance by the municipality? The Agra municipality applied for permission to impose such a tax. That was the only way open to it of augmenting its income?—I am not sure whether that is the only way of augmenting their income, but it is a natural way of augmenting their income in a town which so many people visit and which has to keep up a standard of its own to suit the visitors.

177. If sanction is given by the Government of India to the imposition of this tax the income of important municipalities would considerably increase?—Many of the important municipalities already have taxes of this nature. They call it a pilgrim tax.

178. That is a different tax?—I mean a passenger tax. The pilgrim tax is this so far as the pilgrims are concerned.

179. *The Chairman*: I have not followed the distinction between the two taxes. What is the exact nature of the pilgrim tax first of all?

*Mr. Desanges*: Those persons who come to pilgrim centres have to pay a certain tax. The railways levy that tax.

180. *The Chairman*: A surcharge on railways?

*Mr. Desanges*: Yes.

181. *The Chairman*: The proceeds of the pilgrim tax go to the provincial or the Central treasury?—

*Mr. Desanges*: To the municipal boards like Allahabad and Benares.

182. *The Chairman*: They are put to special local expenditure because of the influx of pilgrims, and that is met by this tax? In Agra, it is a proposal to tax the people who go to see the Taj? (Laughter.)—Yes.

183. In this case there was difficulty and the Government of India felt unable to agree to it?—Yes.

*The Chairman*: On the other hand I suppose every man going to Agra on business or to see the beautiful things there will be expected to pay the tax. That was probably the point.

184. *Mr. Desanges*: Have the municipalities not to incur extra expenditure in maintaining roads and things of that sort in places where there is a large influx of passengers from all parts of India?—They have great difficulty in attaining modern standards.

*The Chairman*: Probably it might be useful to read what the Todhunter Committee has to say about this particular tax. Paragraph 447 says: "Taxes on pilgrims are usually levied on the railway tickets and are collected by the railway company for a small commission. They apply only to certain pilgrim centres, and in many cases they can be imposed only during certain festivals. There is usually a free zone, all passengers coming from stations within the free zone being exempt from the tax. As a tax on transport, this tax is theoretically objectionable, but the rate is so low that it involves little hardship or addition to the expenditure which the pilgrimage normally involves. On the other hand the receipts are generally earmarked for very necessary purposes of providing conveniences for pilgrims and taking measures to prevent the spread of epidemics." That is the way they summarise it.

185. *Mr. Desanges*: Is it not a fact that in the Resolution on the working of district boards the Government themselves bore testimony to the excellent work done by many district boards and their chairmen?—They have.

186. Is it not inconsistent with the sweeping remark made on page 54 (Report on the working of the system of Government—United Provinces—

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[Continued.]

1921-28) that "there has undoubtedly been much deterioration in local self-government, much jobbery, and much injustice"?—No, the existence of the good does not balance the bad. There are bad and good boards as this memorandum shows throughout. I do not think the balance is such as to say that there has been no deterioration.

187. But is there any justification for making a general statement of this nature? Would you not qualify it?—I do not know if I can say whether the statement is justified or not.

188. *The Chairman*: May I put it this way. I do not read it myself as meaning that this is the universal and invariable result. I understand the author of this passage, I do not know whether he is right or wrong, to mean that the cases that he refers to are sufficiently numerous for him to wish to make the remark, but I do not think for a moment that the suggestion was that there were no cases of the opposite type. I should not suppose it. I am quite sure there must be cases where there has been some very good work done. You do not understand it to mean as a universal proposition?—No, sir. I endeavoured to say that in my reply.

189. *Mr. Desanges*: Are you aware that money has been borrowed for construction of police buildings and buildings for other reserved departments? Government have borrowed money for the construction of police buildings?—Yes, I understand they have.

190. Are you aware that the Finance department is raising technical difficulties in the way of the Government borrowing money to give to local bodies for constructing primary school buildings, for the introduction of public health schemes and for reclassification of roads?—Yes, a technical objection to Government borrowing on behalf of local bodies has been made.

191. Is it not a great hardship on local bodies? Are they not at the end of their resources?—No, the local bodies are not at the end of their resources.

192. Do you not think that their existing resources do not allow them to meet all the demands for the construction of buildings for primary schools and to carry out schemes of public health, medical relief and development of communications?—They could not build all the buildings required in the districts for a complete network of schools and dispensaries. The resources of the local bodies are not sufficient for that.

193. But will not that be supplemented if this technical objection is withdrawn and local bodies are allowed to borrow money for beneficial activities?—The technical objection might then only be replaced by the practical objection that the Government was not in a financial position to add to its indebtedness.

194. But it has added to its liabilities by borrowing for police buildings and revenue buildings?—I should be glad to see the technical objection removed.

195. *Mr. Srivastava*: What is the technical objection, may I know?—That a local Government may not borrow money for buildings which would be constructed for the local bodies.

196. Is that a definite rule?—It is a financial subject with which I really am not very familiar. But that is the effect so far as our administrative departments are concerned.

197. You are hampered by that rule?—It is an obstacle, certainly, which has been raised.

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198. *Sir Arthur Froom*: In this book\* under Local Self-Government, there is a division of various subjects in charge of the minister for Local Self-Government. I am referring to municipalities, district boards and village panchayats. The chapter gives a very interesting survey of the work done by each of these bodies and also the conclusions arrived at. The conclusions expressed in this chapter are not very eulogistic of the work done by these bodies. Then I come to Buildings and Roads. In reading through the relevant portion dealing with this subject it appears to me that you find the upkeep of the

roads by district boards was not efficiently done on the whole and therefore for the future you propose that there should be regular inspection of the local roads kept up by district boards which receive grants from the provincial Government. Might I assume that the inspection will be similar to that done in the case of provincial roads and might I also assume that this inspection will not necessarily take the form of an officer coming down and saying "Why have you spent money on this or that" but that he might also give advice?—Yes.

199. There should be a regular inspection from the Public Works department to see whether money has been wasted on roads, what revenue will be derived and so on?—Yes.

200. Now coming back to the other part, viz. the other departments administered by municipalities, district boards and village panchayats, might I suggest that a similar sort of arrangement should be made if possible, I mean some sort of inspection. By inspection I do not mean the sort of school-master's inspection to find fault, but an inspection with a view to help these bodies. Do you think that, as in the case of roads, some sort of inspection might be proposed for other subjects dealt with by the municipalities and district boards?—That is what we contemplate in the case of hospitals and that is what we are doing in the case of public health.

201. Might I explain the reason for putting this question? As I read the conclusions which, as I have already said, are not very eulogistic, I find that a remedy in respect of local roads has been suggested but I cannot find any remedy suggested for other subjects?—We do say that the possibilities of remedy are on the line which you have suggested.

202. That is to say, that is the line of action you propose to take?—Yes.

203. *Raja Nawab Ali Khan*: Is it not a fact that the Director of Public Health, the Superintending Engineer of the Public Health Department and the Electrical Inspector to Government also exercise control as experts in their respective spheres over the municipal committees?—Yes.

204. It is therefore likely that the opinion and policy of one officer may differ from one who succeeds him?—It is possible.

205. In that case it is hard on the municipal boards to follow the advice of one expert at one time and soon after to give it up when the next expert makes his suggestions?—I do not think it is likely to occur.

206. Is it not a fact that the Lucknow municipality on the advice of one set of experts undertook the construction of tube wells and maintained them at considerable expense until they were condemned by the successive experts?—I do not know that case, but I have heard some cases of that kind.

207. Are you aware that when the Sullage Farm scheme was originally adopted at the advice of Government experts it was a less costly scheme and when it was almost completed the board was advised by Government experts to adopt a more costly scheme which, I understand, is again going to be changed?—The Sullage scheme was a very difficult scheme; I am aware that there are a good many changes of idea about that.

208. Is it not a fact that the board is bound to adopt the proposals made by Government experts and cannot obtain expert opinion from elsewhere?—If the board wants Government money to carry out a scheme it has to take Government advice.

209. That is to say, failure to give effect to the proposals of Government and to obtain advice from other experts renders the board liable to forfeit Government grant and even suspension?—Yes.

*The Chairman*: Excuse me for interrupting. I appreciate the point made but it does not seem to me so very surprising. The system which obtains in this part of the world seems due largely to this: Even in matters which perhaps in other countries we should regard as purely local matters, the provincial Government is asked to come in and be, in

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effect, a partner. It seems to me that it is not altogether surprising that any provincial Government which lends money should say "I cannot subscribe half unless I have some controlling voice in the method of spending the money."

*Raja Nawab Ali Khan*: When the work is almost finished, sir, they are asked to take up another scheme.

*The Chairman*: That is only extremely unfortunate.

210. *Sir Hari Singh Gour*: The emancipation of local bodies since 1921 was intended as a training ground for the people to the larger responsibilities which were to be given in the local councils and the Central legislature. What is your opinion? Do you think that the responsibilities thrown upon the district boards and municipalities have been used as an adequate training ground for the purpose which the Government had in view? Have they fulfilled the expectations aroused in the minds of those who wanted this to be an adequate training ground for the larger responsibilities to be conferred upon them and which were in a measure conferred upon them, in local and Central legislatures?—I think if you compare the number of members of the district and municipal boards with the 100 members who appear in the legislative council, you cannot say that all the 100 have received training in local boards. No doubt there are some members of the local legislature who have received training in local boards, but it seems to me that there cannot be any comparison between the number of members on the district boards and the number of members on the legislature.

211. The object of transferring power from the district magistrate to the chairman of the district board was surely to make the people more conversant with the management of their own affairs and to act as a training ground for the management of their local institutions?—In their own local affairs?

212. Yes.—Yes.

213. How far has that expectation been fulfilled in your province on the whole?—I think they are learning how to look after local institutions.

214. Have they looked after their local institutions in the manner in which the local Government expected that they would be trained to look after?—I cannot say what the expectation of the local Government was.

215. Speaking personally, for yourself, are you satisfied with the measure of progress that has been shown during the last six or seven years?—I must turn back to the chapter in the memorandum which gives the conclusions of the Government on that subject.

216. But I am asking your personal opinion on the subject.—I think the boards' work is better now than perhaps it was some years ago.

217. *Sir Hari Singh Gour*: You are satisfied that it is improving?

*The Chairman*: I may state that I am very glad to hear the answer which was given. The witness thinks that there is an improvement, but it is not the same thing as saying that he is satisfied.

218. *Sir Hari Singh Gour*: I want to know whether that improvement satisfies him or he would like to see more improvement?—I would certainly like to see more improvement. I am not satisfied with the improvement that has taken place.

*Sir Hari Singh Gour*: On page 474\* of the memorandum it has been stated: "Their work has been marred by communal feeling in regard to services, slaughter-houses and the Urdu script. Government's warnings and interference have kept it in check in many of them. It is, however, one of the greatest bane of local self-government—urban as well as rural." On page 509, paragraph 392\*, towards the end: "Personal and communal considerations rather than the public interest have not infrequently been the chief factor in the decisions taken." Then on page 510\*, towards the end: "An enlightened and effective public opinion is the life-breath of local self-government; it is undoubtedly, though very slowly, growing

"and on very broad communal issues it can even now be stirred to action."

*Lord Burnham*: Will you please read the next sentence also?

219. *Sir Hari Singh Gour*: Yes. "But on the day-to-day administration of the boards its influence is as yet so weak as to be almost imperceptible." Then on page 510\* it is remarked: "The boards have had to contend against great difficulties \* \* \* (I leave out the intervening three lines) \* \* \* and above all, the bitterness of communal feeling." In these four references your Government refers to the loss of efficiency and the display of communal feeling which interferes with the discharge of public duties. How would you be able to eliminate or minimise the mischief that communal feeling is doing in the province? Have you any suggestions to make?—No.

220. You think the evil has come to stay or do you suggest some means of eradicating this evil? Have you or your Government ever thought about any solution?—I have no doubt Government have. I have to accept this fact as being one of the difficulties in the working of the local boards. By communal feeling is meant not only communal feeling but also personal friction; if something of this kind does exist it is a great difficulty in the working of the board.

221. Have you ever tried to hold local self-government conferences with a view to bring home to the people and to the representatives on the district boards and municipalities the larger outlook of discharging the public duties free and untainted by communal feeling?—There had been a conference at which the minister presided.

222. You think it has done any good?—The subjects for discussion at these conferences are so general and as such there cannot be very effective discussion.

223. What is your view in the matter of sending out deputations and delegations to various centres where work is done free from the tinge of communal feeling and personal jealousies, where local bodies are better administered, so that it may serve as an eye-opener to your district boards and municipalities?—Do I understand sending deputations by the boards to other boards?

224. Yes. Has your minister for Local Self-Government, or the Government for the matter of that, ever thought about it?—We draw the attention of boards to the value of finding out what other boards do.

*Sir Hari Singh Gour*: Not that. To make the people visualise that they must not have any communal feeling and that they must live for the larger life of the nation, to give them the opportunity of visiting places where better work is done—

225. *The Chairman*: It is a general question. I quite follow it. I gather that from time to time efforts have been made to hold conferences?—Yes.

226. (*To Sir Hari Singh Gour*): Do you not think it is better to leave it at that?

*Sir Hari Singh Gour*: Yes, sir.

227. A question was put to you as regards the fixation of percentages of employment of various communities in the public services and I understand you to say that you thought there was difficulty in the way. Do I understand you correctly?—I do not see myself what particular good it would do.

228. Would it not lower the efficiency in the public services?—Not necessarily, provided you have the minimum standard of qualification.

229. If you have a minimum then that would be the standard and not the maximum.—In any appointments for public service you have, I think, a minimum standard of qualification.

230. But the man with a greater efficiency may lose his chance because he does not belong to a particular community for which a vacancy has arisen?—It is rather a personal issue, I think.



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231. *Sir Zulfiqar Ali Khan*: You said to the Conference that Government have interfered in cases where dues from taxes were not realised. Do you think that it is due to the general inefficiency of the administration of the local boards and municipalities or is it due to any communal bias? For example, an officer may be a Mussalman or a Hindu and he feels reluctant to realise the dues from his co-religionist?—I think that compared with inefficiency the communal element is insignificant.

232. It is generally due to slackness in administration?—Yes.

233. You think that public opinion is becoming more and more familiar with the administration of these local boards?—I could not give my reasons for saying so, but I think public opinion is becoming more and more familiar.

234. Do you think that the public can realise the work done by the district boards or the municipal committees or do they see any slackness on the part of these bodies? Do they express their resentment if the members of these boards do not perform their duties?—Government certainly get complaints from individuals and sometimes from Associations about inefficiency of the municipal or district board work.

235. I want to know whether public opinion is consolidating in this matter and whether there is demand for more efficiency on the part of their representatives?—I could not judge that. It is impossible to form any opinion on that.

236. *Dr. Sukrawardy*: May I ask you who introduced the system of communal electorates in the district boards? Am I right in saying that the Hindu minister in charge of Local Self-Government introduced them?—The Act was carried through by a Hindu minister.

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239. You do not suggest that communal feeling displayed in the district boards on the question of slaughter-houses and script has anything to do with the system of electorates?—No, I do not think so.

240. It was rather due to the fact that Mussalmans, the beef-eating Mussalmans, have got a script of their own?—I cannot say what the reasons are. I know some feeling exists.

241. You do not think that if any other system of electorate is introduced the Mussalmans are likely to give up the question of the Urdu script?—It seems unlikely.

242. You say that no Government servant can be elected as chairman of the district board. Are public prosecutors and Government pleaders considered in your province as Government servants?—I do not think they are for that purpose.

243. They are not regarded as Government servants?—No.

244. Do you know whether they were not so regarded before the Reforms of 1921?—No, I do not recollect.

\* \* \* \* \*

250. *Sardar Shivdev Singh Uberoi*: You have stated that the district boards are constituted on a communal basis. What is the formula acted upon for the representation of the different communities in your province? Is there any set formula?—There is an elaborate scale of percentages varying according to the district between the strength of the Muslim community and the non-Muslim community. If the percentage is below a certain figure then the percentage of Muslim members to the non-Muslim members is so much. In our Municipal and District Boards Act there are these different percentages. The calculation is complicated.

251. Can you tell us the percentage of the minority communities represented on these boards?—In a normal district board it works out to about 6 members out of 30; but the districts of the United Provinces vary very much in the percentage of the different communities.

*The Chairman*: I have the Statute in front of me.

It is an elaborate section, section 5. I think, *Sardar Shivdev Singh*, you may have a look at it later.

252. *Sardar Shivdev Singh Uberoi*: Have all the district boards and municipal committees non-official presidents in your province?—All the district boards have.

253. And the municipal committees?—I think 6 or 7 municipal boards have official chairmen still.

254. And the rest have non-official chairmen?—Yes.

255. May I refer to page 506 of your memorandum, paragraph 385\*, which says at the end: "As already stated the former type of committee has already proved a failure, and the latter though fairly successful has not been able to—indeed it was not designed to—take the place of a trained executive agency?" May I know to which this refers, "the former type of committee"?—The sub-division committee.

256. Further on it is stated: "The weakness of the board's executive action has been due to the defective policy underlying the Act." May I know what that policy is and whether Government ever thought of any means by which to improve that policy?—I think the meaning of that passage is that when the Act was framed not sufficient attention was paid to the work the district boards were going to do and to the men who were going to do it, and the Government have ever since been engaged in trying to remedy that defect.

257. Have any amendments been passed to the Act?—No. No amendments have been proposed except the minor amendment of delegating powers to certain Government officials.

258. What relation does the commissioner bear to the district and municipal boards?—A number of functions are conferred on the local Government by these Acts and these are delegated to the commissioner. The commissioner has to scrutinise the returns and reports and the agenda and the minutes of the proceedings of these boards. He has also certain powers of interference under the Act. He exercises a certain amount of financial control by scrutiny.

259. Who sanctions the budgets of the local boards, the Government or the Commissioner?—The commissioner.

260. For all municipal committees and district boards?—Only in the case of municipal boards which are indebted.

261. *The Chairman*: The question put was who sanctions the budgets of the local boards. First of all does anybody sanction the budget?—The commissioner sanctions the budgets of the indebted municipalities and of the district boards.

262. Whether indebted or not?—Yes.

263. Sometimes he refuses his sanction?—Only on certain grounds specified in the Act.

264. Sanction is a formality?—In the case of district boards it is so largely.

265. *Sardar Shivdev Singh Uberoi*: And in the case of those municipalities which are not indebted?—As far as I recollect they do not come up to the commissioner for sanction.

266. Do they come up to the Government?—No.

267. *Lord Burnham*: In regard to public health, who fixes the qualifications of the officers of public health appointed by the local boards?—The Government.

268. Is it the case—I heard it stated and I have no indication whether it is true—that latterly the degree of D.P.H. which has been valid all over the Empire has been dispensed with?—We have the Lucknow degree of public health and our public health service consists of officers some with the English degree of public health and others with the Lucknow degree which, I understand, is on the same level as the former.

269. Are you satisfied that the Lucknow degree is equivalent with the London degree?—I do not

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## APPENDIX.

know that I am able to judge on so professional a point as that.

270. Are you satisfied from the reports you receive that the qualifications of the officers of public health at present are sufficient?—We are getting good men now.

*The Chairman:* There are just two things perhaps which I may be allowed to state, because I want to be sure, as far as may be, that we get a fair picture. I notice on page 455 of the memorandum\* an interesting observation in reference to municipalities. "A few boards with a majority of Hindu members have elected non-Hindu chairmen. Recently a Muhammadan has been elected as chairman of the Benares municipality. Cawnpore had till recently, and Saharanpur still has, a Parsi chairman." I think it is useful just to mention that. The other thing one ought to notice is this. I gather from page 2† of the book that the material dealing with the departments under the Minister for Local Self-Government has been compiled under the orders of that Minister and has the approval of the Governor acting with the Minister.

APPENDIX (*vide* p. 215, Q. 71).

Statement (supplied by Local Self-Government Secretary) showing the present members of municipal and district boards in the United Provinces who are actually members of depressed and backward classes. The statement gives the names of the castes and it should be explained that there is no official distinction in these provinces between the depressed class and the backward class.

The arrangement of the statement is as follows: It gives first of all the caste of the member of the district board. The concluding column deals with the municipal boards and shows first the municipal board which gives its name to the district, and then any of the outlying municipal boards of the district which have representatives of these castes.

Two points have to be kept in mind. Firstly, in a number of cases the representative of the depressed classes is not an actual member of those classes but an Indian Christian or sometimes an Indian of superior caste who takes a special interest in depressed class work. This accounts for a number of cases in which there is apparently no representative of those classes on a local board.

Secondly, there is no statutory obligation on the Government to appoint a depressed class member or representative on a municipal board. Recently Government has undertaken to do so, but in a number of cases the terms of the sitting members have not expired, so that there has been no vacancy as yet in which to place a representative of the depressed classes. This also accounts for some omissions.

|             | District.        | District Board. |                                                                                                                                  |
|-------------|------------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------|
| Rohilkhand. | Bareilly ..      | Teli            | —                                                                                                                                |
|             | Bijnor ..        | Chamar          | (Chandpur municipal board)—Chamar—(Dhampur municipal board)—mali—(Nagina municipal board)—Chamar—(Najibabad municipality)—Lohar. |
|             | Budaun ..        | Teli            | —                                                                                                                                |
|             | Moradabad ..     | Baghan          | (Amroha municipal board)—Chamar—(Municipal board)—Kachi—(Tilhar municipal board)—Bharbhunja.                                     |
|             | Pilibhit ..      | Chamar          | (Municipal board)—Teli.                                                                                                          |
|             | Farrukhabad      | Chamar          | (Municipal board)—Raidas—(Kanauj municipal board)—Chamar.                                                                        |
|             | Etawah ..        | Jatav           | —                                                                                                                                |
|             | Cawnpore ..      | Kori            | (Municipal board)—Ahirwar—(Chamar)                                                                                               |
|             | Fatehpur ..      | Kalwar          | —                                                                                                                                |
|             | Allahabad ..     | Chamar          | (Municipal board)—Dhobi.                                                                                                         |
| Allahabad.  | Jhansi ..        | Khatik          | (Municipal board)—Lohar—(Lalitpur municipal board)—Teli—(Mau municipal board)—Chipi.                                             |
|             | Jalaun ..        | Kumhar          | (Kunch municipal board)—Mukeri.                                                                                                  |
|             | Hamirpur ..      | Chamar          | —                                                                                                                                |
|             | Banda ..         | —               | —                                                                                                                                |
|             | Benares ..       | —               | —                                                                                                                                |
|             | Mirzapur ..      | Kurmi           | —                                                                                                                                |
|             | Jaunpur ..       | —               | (Municipal board)—Kalwar.                                                                                                        |
|             | Ghazipur ..      | Kalwar          | —                                                                                                                                |
|             | Ballia ..        | Vanik           | (Municipal board)—Teli.                                                                                                          |
|             | Gorakhpur ..     | Kalwar          | —                                                                                                                                |
| Benares.    | Basti ..         | Teli            | —                                                                                                                                |
|             | Azamgarh ..      | —               | —                                                                                                                                |
|             | Naini Tal ..     | Arya            | (Kashipur municipal board)—Nai.                                                                                                  |
|             | Almora ..        | Tamta           | (Municipal board)—Tamta.                                                                                                         |
|             | Garhwal ..       | —               | —                                                                                                                                |
|             | Lucknow ..       | Chausia         | —                                                                                                                                |
|             | Unao ..          | Pasi            | —                                                                                                                                |
|             | Rae Bareilly ..  | Teli            | —                                                                                                                                |
|             | Sitapur ..       | Chamar          | (Municipal board)—Teli—(Khairabad municipal board)—Kori.                                                                         |
|             | Hardoi ..        | Avadh           | (Municipal board)—Kumhar—(Shahabad municipal board)—Kalwar.                                                                      |
| Kumaun.     | Kheri ..         | Chamar          | (Municipal board)—Chamar.                                                                                                        |
|             | Fyzabad ..       | —               | —                                                                                                                                |
|             | Gonda ..         | —               | —                                                                                                                                |
|             | Bahraich ..      | Chamar          | (Municipal board)—Chamar.                                                                                                        |
|             | Sultanpur ..     | —               | (Municipal board)—Chamar.                                                                                                        |
|             | Partabgarh ..    | Chamar          | (Municipal board)—Chamar.                                                                                                        |
|             | Bara Banki ..    | Kalwar          | (Municipal board)—Carpenter.                                                                                                     |
|             |                  |                 |                                                                                                                                  |
|             |                  |                 |                                                                                                                                  |
|             |                  |                 |                                                                                                                                  |
| Lucknow.    | Dehra Dun ..     | Gararia         | —                                                                                                                                |
|             | Saharanpur ..    | Chamar          | (Municipal board)—Chamar.                                                                                                        |
|             | Muzaffarnagar .. | Siyani          | —                                                                                                                                |
|             | Meerut ..        | Jatav           | (Municipal board)—Chamar—(Ghaziabad municipal board)—Kahar.                                                                      |
|             | Bulandshahr ..   | —               | —                                                                                                                                |
|             | Aligarh ..       | —               | (Hathras municipal board)—Kachhwa.                                                                                               |
|             | Muttra ..        | Chamar          | (Municipal board)—Kumhar.                                                                                                        |
|             | Agra ..          | Jatav           | (Municipal board)—Khatik.                                                                                                        |
|             | Mainpuri ..      | Jatav           | (Municipal board)—Rehadas.                                                                                                       |
|             | Etah ..          | Ahir            | —                                                                                                                                |

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† Letter No. 111, dated 8th August, 1928, from the Government of the United Provinces—printed at the beginning of Vol. IX.